



DATE: August 13, 2012

TO: Board of Water and Soil Resources' Members, Advisors, and Staff

FROM: John Jaschke, Executive Director

SUBJECT: August 22-23, 2012 – BWSR Board Tour Details and Meeting Notice

The Board of Water and Soil Resources (BWSR) will tour southwestern Minnesota (Lincoln and Lyon Counties) on Wednesday, August 22, 2012. *See attached tour itinerary.* The Area II Minnesota River Basin Project, Inc., and Lincoln, and Lyon Soil and Water Conservation Districts are the local hosts, and the tour will highlight their conservation efforts.

**Tuesday, August 21<sup>st</sup>**

A van will depart from the BWSR office in St. Paul on Tuesday, August 21<sup>st</sup> about 2:00 PM. If you are interested in carpooling in the van to/from Marshall, please contact Mary Jo Anderson at 651-297-4290 or [mary.jo.anderson@state.mn.us](mailto:mary.jo.anderson@state.mn.us) immediately to reserve a seat in the van.

The van will arrive at the Ramada Inn, 1500 East College Drive (Junction Hwy. 19 and Hwy. 23), in Marshall, about 5:00 PM on Tuesday. Directions to the hotel: <http://www.ramada.com/hotels/minnesota/marshall/ramada-marshall/hotel-overview>

Sleeping rooms have been reserved at the Ramada Inn in Marshall for Tuesday and Wednesday evenings, August 21 and 22. *See the attached room reservation list.* The rooms have been direct billed (you do not pay for the room unless noted on the rooming list). Please contact Mary Jo Anderson immediately if you will not need a sleeping room.

**Optional:** *(Must let Mary Jo know if you plan to attend)*

Tuesday evening - Dinner at the Caldo Italian Kitchen (formerly known as Landmark Bistro), 100 West College Drive, [about five minutes west of the Ramada Inn on College Drive] in Marshall. Dinner reservations are at 6:00 PM. The Caldo Italian Kitchen is casual atmosphere; dinner has been direct billed (you do not pay). The menu features American items as well as Italian choices.

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Mankato</i>	<i>Marshall</i>	<i>New Ulm</i>	<i>Rochester</i>
403 Fourth Street NW Suite 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 S. Lake Avenue Suite 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537 (218) 736-5445	1160 Victory Drive South Suite 5 Mankato, MN 56601 (507) 389-6784	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	3555 9 <sup>th</sup> Street NW Suite 350 Rochester, MN 55901 (507) 206-2889
Central Office / Metro Office		520 Lafayette Road North		Saint Paul, MN 55155	Phone: (651) 296-3767	Fax: (651) 297-5615	
www.bwsr.state.mn.us		TTY: (800) 627-3529		An equal opportunity employer			

**Wednesday, August 22<sup>nd</sup>**

The Ramada Inn has a complimentary breakfast buffet served in the Breakfast Room from 6:00 AM – 9:00 AM for guests staying at the hotel.

Registration, introductions, and a brief overview of the day will be held at the Ramada Inn, in the Chaparral/Frontier Conference Room. A coach bus will promptly depart from the Ramada Inn at 8:30 AM.

The tour will consist of a few stops that we will be walking a short distance, wear your comfortable walking shoes, and casual attire. The tour will be held rain or shine, dress accordingly.

If you will not be present for the Wednesday coach bus tour, or if you do not need a room reservation on Tuesday or Wednesday evening at the Ramada Inn, please contact Mary Jo Anderson immediately, as we need to know the number of people attending. If you have special food needs, or require a vegetarian meal, please contact Mary Jo Anderson as soon as possible.

The narrated coach bus will travel through Lincoln and Lyon Counties. We will see flood control and road retention projects, wetland restoration, and have a coffee break at 10:00 AM at the Coot Wildlife Management Area (WMA) in Lincoln County hosted by the Area II Minnesota River Basin Projects, Inc., and the Lincoln SWCD. We will then travel west in Lincoln County and see Walk In Access sites. We will arrive at Hole in the Mountain County Park about 11:45 AM for lunch. Hole in the Mountain County Park is located on the west edge of the city of Lake Benton, just off U.S. Hwy. 14.

After lunch there will be a presentation from the Lincoln-Pipestone Rural Water System and Verdi Wellhead Protection Project. We will board the coach bus and depart from the Hole in the Mountain County Park about 1:00 PM. We'll tour sediment basins, wind towers, a series of CRP, RIM, and CREP sites, and then travel to the Southwest Sportsman's Club, Hwy. 68, in Minnesota. There will be a presentation/discussion on economics-agriculture-conservation.

The coach bus will arrive back at the Ramada Inn in Marshall about 5:00 PM.

We have dinner reservations at the Marshall Country Club at 6:00 PM. The Marshall Country Club is located at 800 Country Club Drive, about five minutes from the Ramada Inn. Dinner is direct billed (you do not pay).

**Thursday, August 25th**

The Board of Water and Soil Resources (BWSR) will meet on Thursday, August 23<sup>rd</sup> beginning at 9:00 a.m. The meeting will be held at the Ramada Inn, Chaparral/Frontier Conference Room, in Marshall. Parking is available behind the building. The following information pertains to agenda items:

**COMMITTEE RECOMMENDATIONS**

***Southern Water Planning Committee – Please note that the following agenda items are contingent upon the Southern Water Planning Committee’s review and recommendation. The Southern Water Planning Committee meets on Tuesday, August 21, in Marshall.***

1. **Cottonwood County Local Water Management Plan Amendment** - By Board Order, the Board of Water and Soil Resources (Board) approved the Cottonwood County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on June 27, 2007. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Cottonwood County to update the Plan's implementation section by July 1, 2012. Cottonwood County followed the amendment process guidelines established by the Board and submitted their 2012 - 2017 Local Water Management Plan Addendum on May 15, 2012. The Board's Southern Water Planning Committee (Committee) will meet on August 21, 2012 to review the Cottonwood County Plan Addendum. The Committee's recommendation of the Cottonwood County 2012 - 2017 Local Water Management Plan Addendum will be presented to the full Board for review and action. **DECISION ITEM**
  
2. **Freeborn County Local Water Management Plan Amendment** - By Board Order, the Board of Water and Soil Resources (Board) approved the Freeborn County 2006 - 2015 Comprehensive Water Management Plan (Plan) on August 24, 2006. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Freeborn County to update the Plan's implementation section by December 31, 2011. Freeborn County followed the amendment process guidelines established by the Board and submitted their 2011 - 2015 Water Management Plan Addendum on March 8, 2012. The Board's Southern Water Planning Committee (Committee) will meet on August 21, 2012 to review the Freeborn County Plan Addendum. The Committee's recommendation of the Freeborn County 2011 - 2015 Local Water Management Plan Addendum will be presented to the full Board for review and action. **DECISION ITEM**
  
3. **Houston County CLWMP Five-Year Update Extension Request** - Houston County currently has a Comprehensive Local Water Management Plan that will expire in December 2017. On March 21, 2012, Houston County approved and submitted a resolution requesting an extension of their required five-year update to the implementation section of their Plan. BWSR staff reviewed this request and

recommends approval. This extension request will be considered by the BWSR Southern Water Planning Committee, chaired by Paul Langseth, at their August 21, 2012 meeting. The Committee's recommendation will be presented to the full Board for review and action. The state's expectations for the extension request must be sent to Houston County. See attachments. **DECISION ITEM**

4. **Murray County Local Water Management Plan Amendment** - By Board Order, the Board of Water and Soil Resources (Board) approved the Murray County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on June 27, 2007. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Murray County to update the Plan's implementation section by July 1, 2012. Murray County followed the amendment process guidelines established by the Board and submitted their 2012 - 2017 Local Water Management Plan Addendum on June 7, 2012. The Board's Southern Water Planning Committee (Committee) will meet on August 21, 2012 to review the Murray County Plan Addendum. The Committee's recommendation of the Murray County 2012 - 2017 Local Water Management Plan Addendum will be presented to the full Board for review and action. **DECISION ITEM**
  
5. **Wabasha County CLWMP Extension Request** - Wabasha County currently has a Comprehensive Local Water Management Plan that will expire in December 2012. On June 28, 2012, Wabasha County approved and submitted a resolution requesting an extension of their current Plan. BWSR staff has reviewed this request and recommends approval. This extension request will be considered by the BWSR Southern Water Planning Committee, chaired by Paul Langseth, at their August 21, 2012 meeting. The Committee's recommendation will be presented to the full Board for review and action. The state's expectations for the extension request must be sent to Wabasha County. See attachments. **DECISION ITEM**

## **NEW BUSINESS**

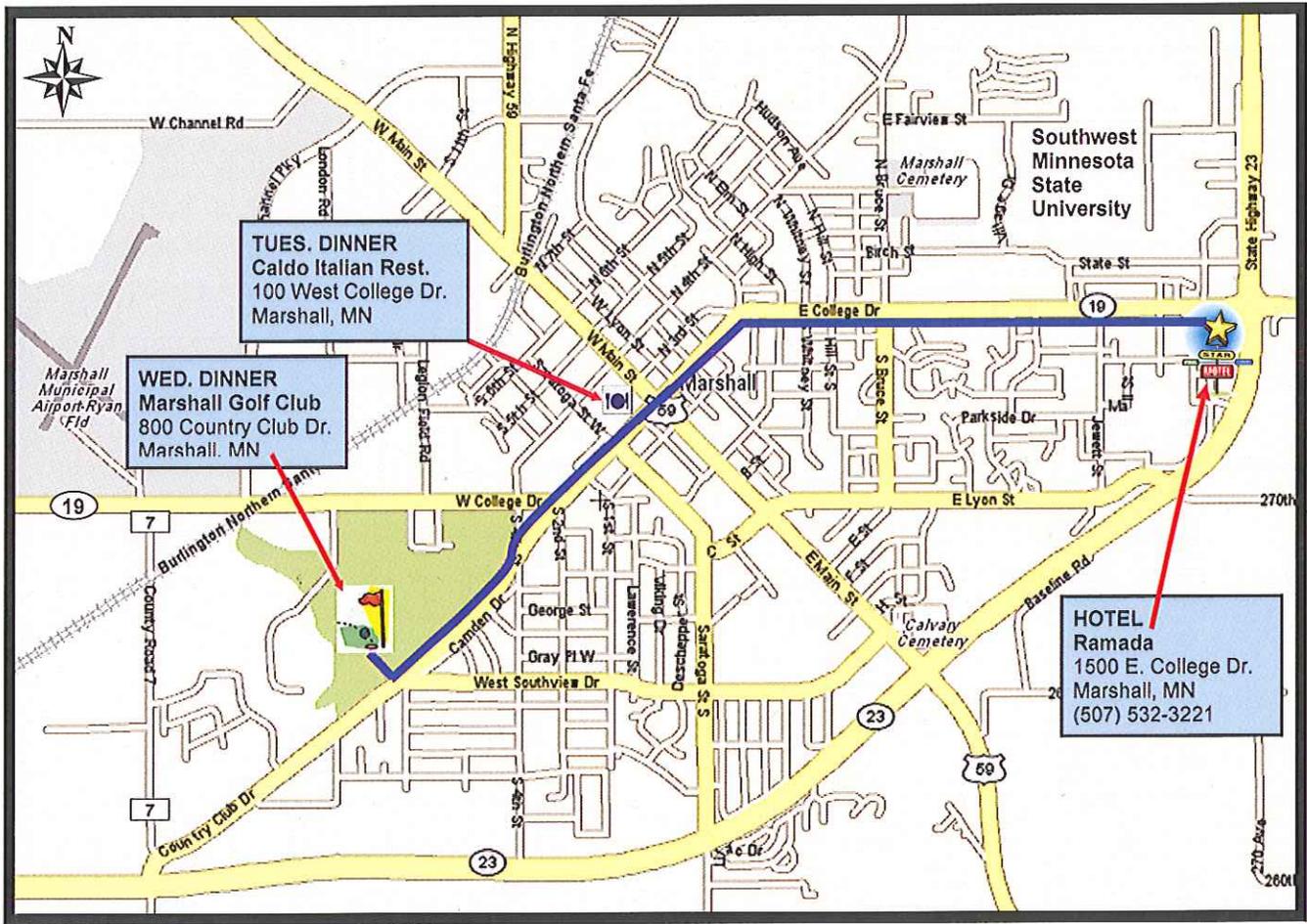
1. **Establishment of An Audit Committee** - The Board of Water and Soil Resources is authorized by Minnesota Statutes 103B.101 to "adopt an annual budget and work program that integrate the various functions and responsibilities assigned to it by law"; and to assess "board programs and recommendations for any program changes and board membership changes necessary to improve state and local efforts in water and soil resources management". BWSR staff and the Administrative Advisory Committee recommend approval of the establishment of an Audit Committee. **DECISION ITEM**
  
2. **Preliminary 2012 Flood Response** - Presidential Declaration of a Major Disaster (DR-4069) includes Duluth and the northeast part of the state were hit by severe storms and flash floods June 19-21. The storms followed windstorms and floods in western and south-central counties. The President declared a major disaster for 15 counties and three tribal governments, qualifying them for Federal Emergency Management Agency (FEMA) Public Assistance funding. Individual Assistance funding was not authorized. A

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Special Legislative Session is anticipated to provide the State portion of the funding.  
***INFORMATION/DECISION ITEM***

If you have any questions regarding the agenda, please feel free to give me a call at 651-296-0878. The meeting will adjourn about noon. I look forward to seeing you in Marshall!

If you are riding the van from Marshall, it will depart from the Ramada Inn immediately following the Board meeting; arriving in St. Paul late afternoon.



**Ramada Inn, Marshall**

**Rooming List for Board of Water and Soil Resources**

**Tuesday, August 21, 2012**

1. Mary Jo Anderson
2. Bob Burandt
3. Joe Collins
4. Jack Ditmore
5. Chris Elvrum \*\*\*
6. Quentin Fairbanks
7. Rebecca Flood \*\*\*
8. Christy Jo Fogarty
9. Todd Foster
10. Sandy Hooker
11. John Jaschke
12. Tom Landwehr \*\*\*
13. Paul Langseth
14. Jen Maleitzke
15. John Meyer
16. Keith Mykleseth
17. Brian Napstad
18. Jeff Nielsen
19. Rob Sip \*\*\*
20. Steve Sunderland
21. Gene Tiedemann
22. Tom Wenzel
23. Matt Wohlman \*\*\*
24. Gerald Van Amburg

**Wednesday, August 22, 2012**

1. Mary Jo Anderson
2. Bob Burandt
3. Joe Collins
4. Jack Ditmore
5. Chris Elvrum \*\*\*
6. Quentin Fairbanks
7. Rebecca Flood \*\*\*
8. Christy Jo Fogarty
9. Todd Foster
10. Sandy Hooker
11. John Jaschke
12. Tom Landwehr \*\*\*
13. Paul Langseth
14. Jen Maleitzke
15. John Meyer
16. Keith Mykleseth
17. Brian Napstad
18. Jeff Nielsen
19. Rob Sip\*\*\*
20. Steve Sunderland
21. Gene Tiedemann
22. Tom Wenzel
23. Matt Wohlman \*\*\*
24. Gerald Van Amburg
25. Kevin Lines

\*\*\* will pay for room upon arrival

August 13, 2012

# BWSR Board Tour Itinerary

Wednesday August 22, 2012

**Hosts: Area II Minnesota River Basin Project, Inc., Lincoln SWCD and Lyon SWCD**

1. Marshall Flood Control Project (John Biren)
2. Lyons 3 Road Retention Project (Kerry Netzke)
3. Black Rush Lake Wetland Restoration/Wetland bank (John Biren)
4. Lynd 32 CREP (Scott Santjer)
5. **Lynd 32 Dam – (Kerry Netzke)**
6. Island Lake 26 Road Retention (Kerry Netzke)
7. Lake Stay Outlet Structure (Kerry Netzke)
8. **Coot WMA (Scott Santjer/Tabor Hoek/John Schueller/Randy Kraus)**
9. Walk In Access site – Lake Stay Township, Section 17 (Randy Kraus/Tabor Hoek)
10. Working Lands Initiative Wetland Restoration site – Ash Lake Township 19 (Randy Kraus)
11. 160 acre Walk In Access site – Ash Lake Township, Section 35 (Randy Kraus)
12. Wetland Restoration – Diamond Lake Township, Section 1 (Randy Kraus)
13. Lake Benton -- Curly Pond weed treatment (Robert Olson)
14. **Lunch -- Hole In The Mountain County Park Chalet**  
**(Dennis Healy) Lincoln-Pipestone Rural Water System and Verdi Wellhead Protection Project**
15. Medary Creek Protection Project -- Verdi Township, Section 5 (Ron Madsen)
16. **Drammen 15 Dam (Kerry Netzke)**  
**Windtowers: (Mike DeVries, AES Wind Generation) Wetland Mitigation: (Kane Radel)**
17. Scholten Wetland Restorations/CREP – Shaokatan Township, Section 15 (Dale Sterzinger/Randy Kraus)
18. E End of Lake Shaokatan – Administering the Wetland Conservation Act in Lincoln County (Dale Sterzinger)
19. Series of CRP and CREP sites along this 3 mile stretch (Randy Kraus)
20. Anderson Lake WMA (David Sill)
21. Jean Ray CRP/RIM/WLI (Randy Kraus/Scott Santjer/Tom Wensel)
22. View from Buffalo Ridge (Ron Madsen)
23. Series of Area II and partner Road Retention projects (Kerry Netzke)
24. **Stop at the Southwest Sportsman’s Club – Presentation/discussion – (Tabor Hoek)**
25. City of Ghent FEMA/Floodplain Mitigation Planning (John Biren)

*The five bolded sites are tour stops that we will be getting off of the bus. The remaining sites will be a brief stop or drive by with an explanation.*

**BOARD OF WATER AND SOIL RESOURCES  
RAMADA INN  
1500 EAST COLLEGE DRIVE  
MARSHALL, MINNESOTA  
THURSDAY, AUGUST 23, 2012**

**PRELIMINARY AGENDA**

**9:00 AM CALL MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ADOPTION OF AGENDA**

**MINUTES OF JUNE 27, 2012 BOARD MEETING**

**PUBLIC ACCESS FORUM** (10-minute agenda time, two-minute limit/person)

**REPORTS**

- Chair – Brian Napstad
- Administrative Advisory Committee – Brian Napstad
- Executive Director – John Jaschke
- Dispute Resolution Committee – Gerald Van Amburg
- Wetlands Committee – Gerald Van Amburg
- Grants Program & Policy Committee – Paul Langseth
- Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth
- RIM Reserve Management Planning Committee – Gene Tiedemann
- Drainage Work Group – Tom Loveall

**COMMITTEE RECOMMENDATIONS**

***Southern Water Planning Committee***

1. Cottonwood County Local Water Management Plan Amendment – Paul Langseth - ***DECISION ITEM***
2. Freeborn County Local Water Management Plan Amendment – Paul Langseth – ***DECISION ITEM***
3. Houston County CLWMP Five-Year Update Extension Request – Paul Langseth - ***DECISION ITEM***
4. Murray County Local Water Management Plan Amendment – Paul Langseth – ***DECISION ITEM***
5. Wabasha County CLWMP Extension Request – Paul Langseth – ***DECISION ITEM***

## **NEW BUSINESS**

1. Establishment of an Audit Committee – John Jaschke – ***DECISION ITEM***
2. Preliminary 2012 Flood Response - John Jaschke - ***INFORMATION/DECISION ITEM***

## **AGENCY REPORTS**

- Minnesota Department of Agriculture – Matthew Wohlman
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service – Faye Sleeper
- Minnesota Pollution Control Agency – Rebecca Flood

## **ADVISORY COMMENTS**

- Association of Minnesota Counties – Annalee Garletz
- Minnesota Association of Conservation District Employees – Matt Solemsaas
- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Sandy Hooker
- Minnesota Association of Watershed Districts – Ray Bohn
- Natural Resources Conservation Service – Tim Koehler

## **UPCOMING MEETINGS**

- Next BWSR Board Meeting – September 26, 2012

Noon

**ADJOURN**

**BOARD OF WATER AND SOIL RESOURCES  
520 LAFAYETTE ROAD N.  
LOWER LEVEL CONFERENCE ROOM  
ST. PAUL, MINNESOTA 55155  
WEDNESDAY, JUNE 27, 2012**

**BOARD MEMBERS PRESENT:**

Linda Bruemmer, MDH; Bob Burandt, Jack Ditmore, Quentin Fairbanks, Rebecca Flood, PCA; Christy Jo Fogarty, Sandy Hooker, Paul Langseth, Tom Loveall, Keith Mykleseth, Tom Landwehr, DNR; Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald VanAmburg, Matt Wohlman, MDA

**BOARD MEMBERS ABSENT:**

Joe Collins  
Todd Foster  
John Meyer  
Brian Napstad

**STAFF PRESENT:**

Mary Jo Anderson, Angie Becker-Kudelka, Tim Dykstal, Travis Germundson, Jim Haertel, John Jaschke, Al Kean, Kevin Lines, Jen Maleitzke, Kathy Moore, Ken Powell, Dan Shaw, Ron Shelito, Kyle Skov, Dave Weirens, Brad Wozney

**OTHERS PRESENT:**

Cliff Aichinger, Ramsey-Washington Metro WD  
Tim Koehler, NRCS

**CALL MEETING TO ORDER at 9:05 a.m.**

**PLEDGE OF ALLEGIANCE**

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12-45 **ADOPTION OF AGENDA** – John Jaschke presented two potential agenda additions:  
1) Under Committee Recommendations/Grants Program & Policy Committee: FY2012 Farm Bill Assistance Grants; and 2) Under New Business: Grants Monitoring Report. Moved by Quentin Fairbanks, seconded by Paul Langseth, to adopt the agenda as presented with two additional items. Motion passed on a voice vote.

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12-46 **MINUTES OF MAY 23, 2012 BOARD MEETING** - Moved by Paul Langseth, seconded by Christy Jo Fogarty, to approve the minutes of May 23, 2012 as circulated. Motion passed on a voice vote.

**CONFLICT OF INTEREST DECLARATION – presented later on agenda.**

**INTRODUCTION OF NEW BWSR STAFF**

- Jen Maleitzke, Communications Coordinator
- Kathy Moore, Office Administrative Specialist
- Ken Powell, Wetland Banking Coordinator

**REPORTS**

**Chair's Report** – Gerald VanAmburg explained that Brian Napstad is dealing with difficult flooding problems in his area and unable to attend the Board meeting; Gerry is Acting Chair today.

**Administrative Advisory Committee** – John Jaschke stated that Brian Napstad's residence and business is on the flooded Big Sandy Lake Reservoir in Aitkin County; he is awaiting a potential disaster declaration. John referred to the map from the State Climatologist showing the total rainfall and precipitation from April – June 25, 2012.

Faye Sleeper, U of M/Extension, arrived at the meeting at 9:20 a.m.

John reported that the Administrative Advisory Committee (AAC) met this morning. Tim Dykstal, Fiscal Compliance Director, presented a proposal for an Audit Committee. The purpose of the Audit Committee is to oversee BWSR's fiscal compliance and internal audit function. It appraises the effectiveness of the agency's system of risk assessment and internal control and provides an avenue of communication between internal auditors, external auditors, management, and the Board. The AAC recommends approval of the Audit Committee, consisting of the chair, vice-chair; three board members at-large; and Tim as staff. The Committee will meet at least once a year, or at

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the call of the chair or at the call of the majority of committee members. The proposal will be on the agenda at the August Board meeting.

John reported that he provided a staffing status report to the AAC. Julie Blackburn has resigned; and the process of hiring an assistant director has begun. Pete Fellend, engineering technician, resigned his position which will also be filled.

John briefed the AAC on the Board Tour/Meeting, August 22-23, at the Ramada Inn in Marshall. Logistics are underway, board members will receive information as details are finalized.

John informed the AAC of the two additional agenda items:

- 1) Grants Monitoring Report - the Board adopted the Grants Monitoring, Reconciliation, and Verification Policy on June 22, 2011, the implementation plan stated that an annual monitoring report would be presented at the June Board meeting. This was on the agenda for the May meeting of the Grants Program & Policy Committee, but the Committee did not get to it.
- 2) Farm Bill Assistance Grants - The Grants Program & Policy Committee considered the program allocations process in May and is recommending the Board adopt the draft resolution.

**Executive Director's Report** – John Jaschke reviewed information in the Board Member packets. Agency members commented on flooding issues in northeastern and southeastern Minnesota; additional burden on staff with the damage and flooding crisis. FEMA will provide 75% of the cost when a disaster declaration is declared; with 25% assistance by the state.

**Dispute Resolution Committee** – Travis Germundson reported that 16 appeals are pending; five new appeals filed since the May 23 Board Meeting. File 12-11 appeal of no-loss determination remanded for further technical assistance.

**Wetlands Committee** – Gerald Van Amburg reported that the Wetlands Committee has not met. John Jaschke stated that Governor Dayton issued Executive Order 12-04 supporting and strengthening implementation of the State's wetlands policy. John stated that this will be brought before the Wetlands Committee at a future date.

**Grants Program & Policy Committee** – Paul Langseth reported that the Grants Program & Policy Committee met on May 23; recommendations are on the agenda later today.

**RIM Reserve Management Planning Committee** – Gene Tiedemann reported that the Committee met May 22; recommendations are on the agenda later today.

**Drainage Work Group** – Tom Loveall reported that Drainage Work Group is meeting tomorrow.

**COMMITTEE RECOMMENDATIONS**

***Metro Water Planning Committee***

**Minnehaha Creek Watershed District Plan Amendment** – Bob Burandt reported that the Metro Water Planning Committee met on May 9, the final draft Amendment to the Minnehaha Creek WD Watershed Management Plan was filed with the Board on May 16, 2012. The draft Order contains a summary of the changes and the reviewing agencies' comments. No comments were received during the public hearing that resulted in revisions to the draft Amendment. The Metro Water Planning Committee recommends approval of the Plan Amendment. Moved by Bob Burandt, seconded by Keith Mykleseth, to approve the Minnehaha Creek Watershed District Plan Amendment. Motion passed on a voice vote.

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12-47

**Scott WMO Plan Amendment** – Bob Burandt reported that the final draft Amendment to the Scott WMO Watershed Management Plan was filed with the Board on May 22, 2012. The draft Order contains a summary of the changes and the reviewing agencies' comments. No comments were received during the public hearing that resulted in revisions to the draft Amendment. The Metro Water Planning Committee recommends approval of the Plan Amendment. Moved by Bob Burandt, seconded by Christy Jo Fogarty, to approve the Scott WMO Plan Amendment. Discussion followed. Motion passed on a voice vote.

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12-48

**Ramsey-Washington Metro Watershed District Enlargement** – Jim Haertel reported that the Cities of Roseville and Shoreview submitted a petition to enlarge the Ramsey-Washington Metro Watershed District pursuant to Minn. Stat. § 103D.261. The petition was accompanied by resolutions of concurrence from the two affected cities. The proposed enlargement would expand the District into the area of the recently dissolved Grass Lake WMO. After holding a public hearing, the Metro Water Planning Committee recommends the watershed district enlargement. Moved by Bob Burandt, seconded by Faye Sleeper, to approve the Ramsey-Washington Metro Watershed District enlargement. Discussion followed. Cliff Aichinger, Administrator of the Ramsey-Washington Metro WD, commented on the capital improvements and the efficiency of enlarging the Watershed District. Motion passed on a voice vote.

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12-49

**CONFLICT OF INTEREST DECLARATION**

John Jaschke explained that the upcoming agenda items today need the Conflict of Interest Declaration form submitted. Acting Chair VanAmburg stated that the declaration process is being used on the following decisions:

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- Area II Minnesota River Basins Project Inc. FY 2012 & FY2013 Biennial Work Plan and Grant
- Minnesota River Board, Fiscal Year 2013 Work Plan and Grant
- Proposed FY'13 SWCD Programs and Operations Grants Allocations
- Proposed FY'13 Natural Resources Block Grant
- FY2013 Clean Water Fund and Competitive Grants Program: Policy and Request for Proposals
- Targeted Drainage Water Management Grants
- FY2013 Farm Bill Assistance Grants
- RIM-WRP Partnership Program FY13 Outdoor Heritage Fund Allocation
- RIM Reserve 2012 Bond Fund Allocation
- Clean Water Fund and Outdoor Heritage Funded Permanent RIM Reserve Riparian Buffer Conservation Easement Program: Revised Criteria, Enrollment Procedures and Policy

Acting Chair VanAmburg read the statement:

*"A conflict of interest whether actual or perceived occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to identify any potential conflicts of interest they may have regarding today's business."*

Acting Chair VanAmburg asked board members to submit their completed Conflict of Interest Declaration forms to John Jaschke. John explained BWSR's conflict of interest policy for grant authorizations. The Conflict of Interest Declaration documents will be filed for the grant decision items.

***Southern Water Planning Committee***

**Area II Minnesota River Basins Project Inc. FY 2012 & FY2013 Biennial Work Plan and Grant** – Paul Langseth reported that BWSR oversees the administrative funding related to the efforts of the Area II Minnesota River Basins Project Inc. (Area II). The 2011 Minnesota Legislature appropriated administrative funding for Area II Minnesota River Basins Project Inc., resulting in a fiscal year 2013 grant of \$120,000. The overall budget objectives are included in the plan. Staff recommends approval of this plan and execution of the administrative grant agreement for FY 2013. The Board's Southern Water Planning Committee met on June 7, 2012 to review the Area II Work Plan and recommends approval of the plan and execution of the FY 2013 grant. Moved by Paul Langseth, seconded by Steve Sunderland, to approve the Area II Minnesota River Basins Project Inc. FY 2012 & FY2013 Biennial Work Plan and Grant. Discussion followed. Steve Sunderland asked if it's important to have the number of staff identified in the work plan. John stated that Area II will be contacted to include the number of staff in future work plans. Motion passed on a voice vote.

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12-50

**Minnesota River Board, Fiscal Year 2013 Work Plan and Grant** – Paul Langseth reported that this work plan is for BWSR oversight of administrative funding related to the efforts of the Minnesota River Board (MRB), formerly known as the Minnesota River Basin Joint Powers Board. The 2011 Minnesota Legislature appropriated administrative funding for the MRB, resulting in a fiscal year 2013 State General Funds grant of \$42,000. The overall budget objectives are included in the work plan. Staff recommends approval of this work plan and execution of the administrative grant agreement for fiscal year 2013. Moved by Paul Langseth, seconded by Tom Landwehr, to approve the Minnesota River Board, Fiscal Year 2013 Work Plan and Grant. Motion passed on a voice vote.

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 12-51

**Grants Program & Policy Committee**

**Proposed FY'13 SWCD Programs and Operations Grants Allocations** – Wayne Zellmer reported that the Grants Program & Policy Committee reviewed the proposed SWCD grant allocations on May 23, and recommends approval of the FY'13 allocations for the Conservation Delivery, Easement Delivery, Non-Point Engineering Assistance, and Cost-Share Base Grant Programs. Moved by Paul Langseth, seconded by Keith Mykleseth, to approve the FY'13 SWCD Programs and Operations Grants Allocations as presented:

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 12-52

- Staff to allocate grant funds to individual SWCDs up to the amounts listed below and as provided on the attached allocation spreadsheet, *Proposed FY '13 SWCD Programs and Operations Grants*:

State Cost Share Base Grants	\$1,559,999
Conservation Delivery Grants	\$1,765,000
Easement Delivery Grants	\$ 290,996

- Allocate the Non Point Engineering Assistance Grants to joint powers boards up to the \$1,060,000, as listed below:

NPEA Area	Base Grant	Host/Fiscal Agent SWCD	Equipment	Total Grant
1	\$120,000	\$10,000	\$0	\$130,000
2	\$120,000	\$5,000	\$20,000	\$145,000
3	\$120,000	\$10,000	\$0	\$130,000
4	\$120,000	\$5,000	\$0	\$125,000
5	\$120,000	\$10,000	\$20,000	\$150,000
6	\$120,000	\$5,000	\$0	\$125,000
7	\$120,000	\$10,000	\$0	\$130,000
8	\$120,000	\$5,000	\$0	\$125,000

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3. Authorize SWCDs, to use all or part of their allocation for technical assistance, when the following conditions exist:
- i. Federal funds will be leveraged and they couldn't do the project otherwise;  
Or,
  - ii. Funds are used on a project(s) that is State Cost Share Program or EQIP eligible and their 2011 Financial Report indicates less than an 18-month fund balance; and
  - iii. Board Conservationist approval.

Discussion followed. Motion passed on a voice vote.

**Proposed FY'13 Natural Resources Block Grant** – Wayne Zellmer reported that the Natural Resources Block Grant (NRBG) provides assistance to local governments to implement state natural resource programs. These programs are: Comprehensive Local Water Management, the Wetland Conservation Act, the DNR Shoreland Management, the MPCA County Feedlot, and the MPCA/BWSR Subsurface Sewage Treatment Systems. The Grants Program & Policy Committee recommends Board approval of the Proposed FY'13 Natural Resources Block Grant allocations. Wayne reported the feedlot allocations are not listed, finalized numbers will be provided to BWSR soon. Moved by Quentin Fairbanks, seconded by Tom Landwehr, to approve the FY'13 Natural Resources Block Grant as presented:

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12-53

BWSR hereby authorizes staff to allocate appropriate individual grant amounts to counties meeting the NRBG Program requirements, as determined by the BWSR, MPCA, and DNR, and indicated on the attached spreadsheet PROPOSED FY'13 NATURAL RESOURCES BLOCK GRANTS; totaling:

LWM	\$1,139,156
WCA	\$1,906,472
DNR Shoreland	\$ 377,372
MPCA Feedlot Base	\$1,689,179
MPCA SSTS	\$1,628,926

and, for Local Water Management, Wetland Conservation Act, and DNR Shoreland Programs, Local Governmental Units will have the flexibility of determining the amount of the total of these three BWSR Programs, to allocate to each of their programs locally.

Discussion followed. Motion passed on a voice vote.

**FY2013 Clean Water Fund and Competitive Grants Program: Policy and Request for Proposals**

– Dave Weirens reported that BWSR has been appropriated Clean Water Funds for grants to local governments to address water quality needs. The Minnesota Department of Agriculture is contributing funds to this grant program. BWSR staff are proposing to package these funds into a single request for proposals that will allow local governments to apply for funds to address water quality priorities that are identified in their local water management plan. The Grants Program and Policy Committee reviewed this program on May 23, 2012 and recommends approval. Dave reviewed the competitive grant policy and request for proposals (RFP). Moved by Paul Langseth, seconded by Christy Jo Fogarty, to authorize staff to finalize, distribute and promote a Request for Proposals (RFP) for the FY2013 Clean Water Fund Competitive Grants Program consistent with the provisions of appropriations enacted in 2011 and 2012; and adopts the FY2013 Clean Water Fund Competitive Grants Policy. Discussion followed. Motion passed on a voice vote.

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12-54

Al Kean presented a brief explanation of a drainage management initiative by NRCS, focused on targeted drainage water management grants. Al reported that this is tied cooperatively with NRCS standards, clarified multi-purpose management on drainage systems, and nutrient management systems. This will be an RFP, the Grants Program & Policy Committee will review, allocations of grants in December.

Linda Bruemmer left the meeting at 10:45 a.m.

Vice-Chair called for a break in the meeting at 11:05 a.m. The meeting reconvened at 11:10 a.m.

**Targeted Drainage Water Management Grants**

– Kyle Skov reported that the Grants Program and Policy Committee reviewed the targeted drainage water management grant allocations totaling \$700,000 and recommends Board approval. Kyle presented a summary of the recommended grantees and the allocation. Moved by Rebecca Flood, seconded by Steve Sunderland, to approve the targeted drainage water management grants and associated grant allocations as indicated:

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12-55

Bois de Souix Watershed District	\$170,000.00
GBERBA (Greater Blue Earth River Basin Alliance)	\$170,000.00
Mower SWCD, Cedar River Watershed District, Turtle Creek Watershed District Partnership	\$100,000.00
RCRCA (Redwood Cottonwood River Control Area)	\$100,000.00
Buffalo Red River Watershed District	\$ 70,000.00
Lac qui Parle SWCD, Yellow Medicine SWCD Partnership	\$ 60,000.00
Two Rivers Watershed District	\$ 30,000.00
Total	\$700,000.00

**BWSR Meeting Minutes**  
**June 27, 2012**  
**Page Nine**

Discussion followed. In order to meet the current need and legislative intent, a targeted grant process was developed. John stated that this is a one-time allocation, in the future it will likely be rolled into drainage water management. Tom Landwehr requested a summary of the types of projects. Motion passed on a voice vote.

**BWSR Native Vegetation Establishment and Enhancement Guidelines** – Dan Shaw reported that ongoing collaboration with partners, new information and additional experience resulted in updating the BWSR Native Vegetation Establishment and Enhancement Guidelines, which was completed in May 2012. Dan explained that BWSR staff worked closely with NRCS and DNR to maintain consistency in efforts. Moved by Paul Langseth, seconded by Sandy Hooker, to approve the BWSR Native Vegetation Establishment and Enhancement Guidelines, May 2012 as the replacement for all previous BWSR policy regarding invasive and non-native species, including previous versions of the BWSR Native Vegetation Establishment and Enhancement Guidelines, and authorizes staff to periodically update these guidelines. Discussion followed. Tom Landwehr stated that this is an extraordinary document. Gerald VanAmburg stated that this is very important to guide and shape high quality conservation. Motion passed on a voice vote.

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12-56

**FY2013 Farm Bill Assistance Grants** – Dave Weirens reported that the Farm Bill Assistance Program is a cooperative effort among BWSR, DNR, Pheasants Forever, and local SWCDs to accelerate staff capacity to deliver programs that increase grassland and wetland program enrollment for both wildlife habitat and water quality. The FY13 Farm Bill Assistance Program will be funded from several revenue sources, chief among them, the Legislative-Citizens Commission on Minnesota Resources. Dave reported that the Grants Program and Policy Committee reviewed the allocations process in May and recommends approval to avoid delays in program activities by participating SWCDs, as well as potential staffing problems. Dave stated that this is a reimbursement grant program. Moved by Bob Burandt, seconded by Steve Sunderland, to authorize staff to allocate up to \$312,000 Environmental Natural Resources Trust Fund; \$150,000 DNR; up to \$100,000 of unused or returned FY2010 or FY2011 funding for which SWCDs are eligible, and any rollover or slippage from this program according to these policies. Motion passed on a voice vote.

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12-57

**NEW BUSINESS**

**RIM-WRP Partnership Program FY13 Outdoor Heritage Fund Allocation** – Kevin Lines reported the RIM Reserve Management Planning Committee (RRMPC) met on May 22, 2012 and unanimously recommends the allocation of \$13.810 million OHF dollars to the RIM-WRP Partnership. Moved by Gene Tiedemann, seconded by Quentin Fairbanks, to authorize staff to: 1) allocate \$13.81M in Outdoor Heritage Funds to the RIM-WRP Partnership; and 2) target expiring CRP contracts with critical wetland

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12-58

**BWSR Meeting Minutes**  
**June 27, 2012**  
**Page Ten**

restoration practices for enrollment into the RIM-WRP Partnership. Discussion followed. Motion passed on a voice vote.

Christy Jo Fogarty left the meeting at 11:50 a.m.

**RIM Reserve 2012 Bond Fund Allocation** – Kevin Lines reported that the RIM Reserve Management Planning Committee recommends allocation of \$6 million in Capital Budget Bonds to the RIM Reserve Program; and authorize staff to target expiring Conservation Reserve Program (CRP) and Continuous CRP (CCRP) acres on the most vulnerable riparian buffers and wetlands as the priority for enrollment in the RIM Reserve Conservation Easement Program. Kevin stated that a new 11-core area of prairie strategic management plan is in this program. Moved by Rebecca Flood, seconded by Gene Tiedemann to authorize staff to: 1) Allocate up to \$6 million of RIM Reserve Bond funds for targeting the enrollment of the most critical expiring CRP acres using RIM Reserve easements in concert with re-enrollment in CRP; and 2) Target expiring CRP and CCRP acres on the most vulnerable riparian buffers and wetlands as the priority for enrollment in the RIM Reserve Program. The DNR's *Long Range Duck Plan*, *Long Range Pheasant Plan*, and the newly crafted *Prairie Strategic Management Plan*, as well as the Lessard-Sams Outdoor Heritage Council's *Strategic Plan*, will be used to help identify targets. Discussion followed. Motion passed on a voice vote.

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12-59

**RIM Reserve Clean Water Fund Wellhead Protection Initiative Payment Rate Revision** – Kevin Lines reported that the RRMPC considered input from the Minnesota Rural Waters Association and the Red Rock Rural Water District requesting the necessary change to non-cropland payment rates in certain instances. The RIM Reserve Management Planning Committee recommends the Conservation Easement Section Manager, in consultation with the Executive Director or Assistant Director, to offer the cropland rates on non-cropland acres for critical lands to be enrolled in RIM Clean Water Fund Wellhead Protection Initiative. This authorization applies only when all factors related to the easement project purpose and function have been evaluated and an increased rate is determined to be necessary to ensure the public's benefit and safety in completing the project. John stated that the area of the current example is an active gravel mining area.

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12-60

Moved by Gene Tiedemann, seconded by Matt Wohlman, to authorize the Conservation Easement Section Manager, in consultation with the Executive Director or Assistant Director, to: 1) Evaluate and document relevant factors related to the RIM CWF WPI's function and purpose in protecting the public's benefit and safety of the area being enrolled in determining an increased rate is justified and necessary; and 2) Adjust the RIM CWF WPI payment rate up to the current cropland rate for non-cropland areas enrolled in the program. Motion passed on a voice vote.

**Clean Water Fund and Outdoor Heritage Funded Permanent RIM Reserve Riparian Buffer Conservation Easement Program: Revised Criteria, Enrollment Procedures and Policy** – Kevin Lines reported that the RIM Reserve Management Planning Committee recommends implementation of the FY12-13 CWF and OHF RIM Reserve Riparian Buffer Easement Initiative. Moved by Keith Mykleseth, seconded by Paul Langseth, to approve the recommendations of the RRMPC to authorize staff to:

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12-61

- 1) Issue a new FY12-13 CWF/OHF RIM Reserve Riparian Buffer Easement Initiative Request for Proposal.
- 2) Review and approve RFPs for SWCD participation.
- 3) Develop a CWF buffer certification process to determine landowner eligibility.
- 4) Develop a continuous riparian buffer enrollment process, but cap individual SWCD applications at \$1million. If necessary, a pending list will be maintained at the local SWCD for future funding.
- 5) Allow haying of CWF buffers only.

Discussion followed. Motion passed on a voice vote.

**RIM Reserve Easement Alteration Request** – Kevin Lines reported that the RIM Reserve Management Planning Committee recommends authorization of the Conservation Easement Section Manager to develop and finalize the alteration request, achieving the required 2:1 acre newly acquired/released ratio and meeting existing Board policy requirements. Kevin explained that BWSR is working with a very cooperative landowner. Tom Landwehr stated the need to be conscience of setting a precedence -- criteria, process, and more value for the public. Kevin suggested that the RIM Committee will review this in the future. Moved by Gene Tiedemann, seconded by Bob Burandt, to authorize the Conservation Easement Section Manager to:

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12-62

- 1) Work with the WOT SWCD and Mr. and Mrs. Reutter to identify easement alterations that will achieve the 2:1 acre standard in current Board Policy; and
- 2) Develop a Memorandum to File documenting the estimated ecological and economic value benefits to the State; and
- 3) Complete the alteration request for RIM Easement #56-07-00-01-W as requested and modified to meet existing Board Policy.

Motion passed on a voice vote.

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12-63

Moved by Keith Mykleseth, seconded by Faye Sleeper, to table the Grants Monitoring Report until the August Board Meeting. Motion passed on a voice vote.

## **AGENCY REPORTS**

**Minnesota Department of Agriculture (MDA)** – John Jaschke, reported on behalf of Matt Wohlman, that MDA announced members of the Agriculture Water Quality

**BWSR Meeting Minutes**  
**June 27, 2012**  
**Page Twelve**

Certification advisory committee; the membership listing will be distributed to BWSR Board Members.

**Minnesota Department of Natural Resources (DNR)** – Tom Landwehr reported that DNR, BWSR, The Nature Conservancy, Pheasants Forever, and others developed the Prairie Strategic Management Plan, a common vision for the State's grassland in the prairies, and a commitment to implement the program collaboratively. This document will be signed on July 31<sup>st</sup> and presented to the Outdoor Heritage Council on August 1<sup>st</sup>. Tom suggested that a summary of the document be presented at an upcoming Board meeting.

**Minnesota Extension Service (MES)** – Faye Sleeper reported that the Water Resources Council (WRC) is offering LIDAR courses, an LCCMR funded project targeted for LGUs and engineers. Faye encouraged attendance, details of the course are on the WRC website: <http://wrc.umn.edu>

**Minnesota Pollution Control Agency (MPCA)** – Rebecca Flood reported that the TMDL comment period for public input is nearing the end.

**ADVISORY COMMENTS**

**Minnesota Association of Townships (MAT)** – Sandy Hooker reported that the MAT Summer Short Courses are being held June 25-28; good attendance and training. The MAT Board of Directors are meeting with ND, SD, and WI on Thursday and Friday.

**Natural Resources Conservation Service (NRCS)** – Tim Koehler distributed the membership list of the MDA Agriculture Water Quality Certification advisory committee. Tim also distributed copies of a letter to State Conservationist Don Baloun and Warren Formo, Subcommittee Co-Chair, MN Ag Water Resource Center, from MDA Commissioner Dave Frederickson, regarding the federal and state certification program efforts to build a program that enhances water quality and ensures farmer profitability. Tim stated that Don Baloun suggests this as an upcoming topic at a BWSR Board meeting.

Tim, on behalf of NRCS, expressed thanks to Polly Remick's unbelievable work on difficult easement closings; her persistence, mediation, and hard work is greatly appreciated. Tim also expressed thanks to Tom Wenzel for his assistance on training and engineering restoration.

Tim reported that NRCS received an additional \$400,000 of technical assistance for WRP; and \$50,000 for continued assistance with BWSR. Tim briefly commented on the Farm Bill work still underway in Congress.

**UPCOMING MEETINGS**

- BWSR Board Tour and Meeting – August 22-23, 2012, Ramada Inn in Marshall. Information will be provided as logistics are confirmed.

\*\* Moved by Quentin Fairbanks, seconded by Sandy Hooker, to adjourn the meeting at 12:50 p.m. Motion passed on a voice vote.

Respectfully submitted,

Mary Jo Anderson  
Recorder

DRAFT



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: August 23, 2012
Agenda Category: Committee Recommendation, New Business, Old Business
Item Type: Decision, Discussion, Information
Section/Region: Land and Water Section
Contact: Travis Germundson
Prepared by: Travis Germundson
Reviewed by: Committee(s)
Presented by: Gerald Van Amburg/Travis Germundson

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution, Order, Map, Other Supporting Information

Fiscal/Policy Impact

- None, Amended Policy Requested, New Policy Requested, General Fund Budget, Capital Budget, Outdoor Heritage Fund Budget, Clean Water Fund Budget, Other

ACTION REQUESTED

None

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)

Dispute Resolution Committee Report. The report provides a monthly update on the number of appeals filed with the BWSR.

Dispute Resolution Report  
August 23, 2012  
By: Travis Germundson

There are presently 13 appeals pending. All of the appeals involve WCA except File 10-10. There have been 2 new appeals filed since the last report given at the June 27, 2012 Board Meeting.

Format note: New appeals that have been filed since last report to the Board.  
~~Appeals that have been decided since last report to the Board.~~

File 12-13-12 (8-3-12) This is an appeal of a wetland banking credit deposit request in Stearns County. The appeal regards the approval of a wetland banking plan request to deposit credits. The Stearns County Wetland Appeal Panel reversed an earlier staff decision to deny the application. At issue are the eligibility requirements for wetland bank credits. No decision has been made on the appeal.

File 12-12 (7-16-12) This is an appeal of an exemption determination in Renville County. The appeal regards the denial of an agricultural drainage exemption associated with a 1.5 acre wetland. At issue is the wetland type determination. A previous appeal (File 12-5) was remanded for further technical evaluation and administrative proceedings, and now the current approval is being appealed. The appeal has been granted and a copy of the LGU's record has been requested.

~~File 12-11 (6-14-12) This is an appeal of a no-loss determination in Hennepin County. The appeal regards the approval of a no-loss application contenting that the applicant provided no proof to show qualification for a No-Loss. The project proposes to restore the site to an open space/park condition within the Mississippi National river and Recreation Area. A previous appeal (File 12-3) was remanded for further technical evaluation and administrative proceedings, and now the current approval is being appealed. The appeal has been denied.~~

~~File 12-10 (6-11-12) This is an appeal of a restoration order in Stearns County. The appeal regards the draining of approximately 25,700 square feet of wetlands associated with the installation of agricultural drain tile and ditching. The appeal involves the same general area and related wetland alterations as File 12-09. No decision has been made on the appeal. The appeal has been withdrawn.~~

~~File 12-09 (6-11-12) This is an appeal of a restoration order in Stearns County. The appeal regards the draining of approximately 108,028 square feet of wetland associated with the installation of agricultural drain tile and ditching. The appeal has been dismissed.~~

~~File 12-08 (5-29-12) This is an appeal of a replacement order in Stearns County. The appeal regards the placement of approximately 36,808 square feet of fill in a Type 2/6 wetland. The appeal involves the same general area and related wetland alterations as File 12-07. The appeal has been dismissed~~

~~File 12-07 (5-24-12) This is an appeal of a replacement order in Stearns County. The appeal regards the placement of approximately 52,143 square feet of fill in a Type 2/6 wetland associated with development of an industrial park. The appeal has been denied.~~

~~File 12-05 (4-2-12) This is an appeal of an exemption determination in Renville County. The appeal regards the denial of an agricultural drainage exemption associated with a 1.5 acre wetland. At issue is the wetland type determination. The appeal has been remanded for completion of technical work and administrative proceedings. New decision issued under remand (File 12-12).~~

File 11-1 (1-20-11) This is an appeal of a restoration order in Hennepin County. The appeal regards the filling of approximately 1.77 acres of wetland and 0.69 acres of excavation. The appeal has been placed in abeyance and the restoration order stayed until there is a final decision on an after-the-fact wetland application and confirmation of required mitigation.

File 10-10 (6-10-10) This is an appeal filed under Minn. Stat. 103D.535 regarding an order of the managers of the Wild Rice Watershed District not to go forward with the Upper Becker Dam Enhancement Project as proposed. Appeals filed under 103D.535 require that the Board follow the Administrative Procedures Act. The Act requires that the hearing be conducted by an Administrative Laws Judge through the Office of Administrative Hearings. A mediated settlement agreement was reached with the condition that if the watershed district fails to carry out Option D the appeal shall go forward. The appeal has been placed in abeyance.

File 10-7 (2-19-10) This is an appeal of a restoration order in Stearns County. The appeal regards draining and filling impacts to approximately 18.44 acres of Type 2/3 wetland and 3.06 acres of Type 2 wetland. The appeal has been placed in abeyance and the restoration order stayed for submittal of "as built" or project information pertaining to a public drainage system. The landowner has committed to restoring the site and the TEP plans to conduct a site visit this fall to verify that restoration has occurred.

File 10-3 (2-1-10) This is an appeal of a restoration order in Stearns County. The appeal regards the placement of agricultural drain tile and the straightening and rerouting of a county ditch that resulted in over 12 acres of wetland impacts. The North Fork Crow River Watershed District recently constructed two rock riprap grade control structures within the ditch and the landowner has disabled and removed some of the tile. Stearns County is looking into if applicable exemption standards. The appellant has granted BWSR additional time to make a decision on the appeal. No decision has been made on the appeal.

File 09-13 (8-20-09) This is an appeal of an exemption decision in Otter Tail County. The appeal regards the denial of an exemption request for agricultural/drainage activities. A previous denial of the same exemption decision had been appealed (File 09-6). The appeal was remanded for further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted. A pre hearing conference convened on November 12, 2009. At which time parties agreed to hold off scheduling written briefs until the petition before NRCS is concluded. The appeal has been placed in abeyance by mutual agreement until there is a final decision by the Department of Agriculture National Appeals Division. A settlement agreement was reached with NRCS. Continuance of the pre-hearing conference reconvened on July 18, 2011. Settlement discussions are ongoing.

File 09-10 (7-9-09) This is an appeal of a banking plan application in Aitkin County. The appeal regards the LGU's denial of a banking plan application to restore 427.5 acres of wetlands through the use of exceptional natural resource value. The appeal has been accepted and pre-hearing conferences convened on October 13 and 30, and December 14, 2009. Settlement discussions are on hold while the appellant addresses permitting issues with the Corps of Engineers. The appeal has been placed in abeyance by mutual agreement on determining the viability of a new wetland banking plan application.

File 09-3 (2-20-09) This is an appeal of a replacement plan decision in Anoka County. The appeal regards the approval of a wetland replacement plan for 11,919 square feet of impacts associated with a residential development. The appeal has been placed in abeyance and the replacement plan decision stayed for submittal of a revised replacement plan application. The applicant is considering a different design, but nothing has been submitted.

File 08-9. (03/06/08) This is an appeal of a replacement order in Pine County. The appeal regards impacts to approximately 11.26 acres of wetland. The replacement order has been stayed and the appeal has been placed in abeyance pending disposition with the U.S. Dept of Justice.

File 06-23. (05/19/06) This is an appeal of a replacement plan decision in Kanabec County. The LGU denied the wetland replacement plan application. A previous denial of the same replacement plan application had been appealed, the appeal was remanded for a hearing, and now the current denial has been appealed. The appeal has been placed in abeyance pending the outcome of a lawsuit between the landowner and the county. The lawsuit concerns the county's possible noncompliance with the 60-day rule. The county prevailed in district court; however the decision was appealed to the Court of Appeals where the county again prevailed. An appeal to the Minnesota Supreme Court was denied review.

File 06-17. (05/27/06) This is an appeal of a replacement plan decision in the City of Montgomery in LeSueur County. The LGU denied an after-the-fact wetland replacement plan application based on a lack of sufficient reasons why the restoration could not be completed. The appeal was been remanded for further processing at the local level. The City of Montgomery has gradually been working on removing the debris and restoring the wetland in accordance with MPCA requirements.

File 05-1. (01/13/05) This is an appeal of a replacement plan decision by the Rice Creek Watershed District. The District previously made a decision that was appealed which resulted in a remand for an expanded TEP. Now there is an appeal of the decision made under remand since the decision differed from the TEP report. At issue are wetland delineation and the Comprehensive Wetland Protection and Management Plan that BWSR approved. After a hearing before the DRC, the board remanded the matter for new wetland delineation and for submission on an updated, complete replacement plan application. On 12-9-09 the District made a new wetland delineation decision. The applicant has not yet submitted an updated replacement plan application.

### Summary Table

Type of Decision	Total for Calendar Year 2011	Total for Calendar Year 2012
Order in favor of appellant	2	1
Order not in favor of appellant	2	4
Order Modified	2	
Order Remanded		2
Order Place Appeal in Abeyance	4	1
Negotiated Settlement	1	
Withdrawn/Dismissed	2	4

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-2061  
A11-2113**

WCA Appeal of Exemption and No Loss Determinations Waseca County  
WCA Appeal of Restoration Order Waseca County.

**Filed July 30, 2012  
Affirmed  
Schellhas, Judge**

Minnesota Board of Water and Soil Resources  
File No. 11-2 and 11-3

Lori Swanson, Attorney General, Kimberly Middendorf, Assistant Attorney General, St. Paul, Minnesota (for relator Minnesota Department of Natural Resources)

Amy E. Mace, Christian R. Shafer, Ratwik, Roszak & Maloney, PA, Minneapolis, Minnesota (for relator Waseca County Soil and Water Conservation District)

Jill Schlick Nguyen, Assistant Attorney General, St. Paul, Minnesota (for respondent Minnesota Board of Water and Soil Resources)

Jack Y. Perry, Michael W. Kaphing, Briggs & Morgan, P.A., Minneapolis, Minnesota (for respondents Richard and Marie Borglum)

Considered and decided by Schellhas, Presiding Judge; Kalitowski, Judge; and Chutich, Judge.

**UNPUBLISHED OPINION**

**SHELLHAS, Judge**

Relators Waseca County Soil and Water Conservation District (the district) and Minnesota Department of Natural Resources (DNR) appeal by certiorari a Minnesota

Board of Water and Soil Resources (the board) decision reversing the district's denial of respondent-landowners' approved-development-exemption application and requesting that DNR rescind its order that respondents restore or replace wetlands impacted by respondents. We affirm.

## FACTS

The Minnesota Wetlands Conservation Act (WCA) generally prohibits draining wetlands unless the wetlands are replaced by wetlands of equal or greater public value. Minn. Stat. § 103G.221, subd. 1 (2010); *accord* Minn. R. 8420.0105, subp. 1 (2011).<sup>1</sup> But at the relevant time—June 1987 through April 2007—an approved-development exemption from this prohibition applied to property if it was subject to a development approval issued within five years before July 1, 1991, and satisfied several preconditions. Minn. Stat. § 103G.2241, subd. 8 (2006); Minn. R. 8420.0122, subp. 8 (2005).<sup>2</sup>

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<sup>1</sup> We apply the law as it exists today where it does not affect vested rights, result in manifest injustice, and is not contrary to the legislature's statutory direction or legislative history. *Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000).

<sup>2</sup> We note that the legislature repealed the approved-development exemption on May 9, 2007, "the day following final enactment" of the bill. 2007 Minn. Laws. ch. 57, art. 1, § 170(b) at 415, 489 (noting that the governor signed the bill on May 8, 2007); *see* Minn. Stat. § 645.01, subd. 2 (2010) ("Final enactment' or 'enacted finally' for a bill passed by the legislature and signed by the governor means the date and time of day the governor signed the bill."). But the district and the board applied the exemption to the Borglums' approved-development-exemption application because the Borglums submitted their initial application in April 2007. *Cf. Eagle Lake of Becker Cnty. Lake Ass'n v. Becker Cnty. Bd. of Comm'rs*, 738 N.W.2d 788, 790 (Minn. App. 2007) ("Because we conclude that the county has the authority to consider [conditional-use-permit] applications pursuant to the zoning ordinance existing at the time of the application and did not abuse its discretion in making its determination under that ordinance, we affirm that exercise of the county's authority."). On appeal, the parties do not dispute that decision.

Respondents Richard and Marie Borglum applied to the district for an approved-development exemption in April 2007 to comply with a cease-and-desist order issued by DNR requiring the application, basing their application on a 1987 conditional-use permit that they held on their 11-acre property (the property). This appeal centers on the Borglums' 1987 conditional-use permit and 2007 approved-development-exemption application.

In June 1987, the Waseca County Board of Commissioners issued to Mr. Borglum a conditional-use permit authorizing him to use the property for the following purposes: "Shop for land improvement business and storage of equipment and materials. Construction and excavation for a wildlife pond." In 1995, the district issued Ms. Borglum a "certificate of exemption" for "cleaning of existing drainage ditch" on the property pursuant to the approved-development exemption, based on the 1987 conditional-use permit. Also in 1995, the Waseca County Board of Commissioners issued a second conditional-use permit for the property to Ms. Borglum for the "[o]peration and sales of a concrete rock crushing business." In August 2010, the Waseca County Board of Commissioners passed a non-binding resolution that stated that it "supports the idea" that it granted the 1987 and 1995 conditional-use permits with "an implied consent" that the "storage" authorized by the permits included storage "outside of a building structure." Shortly afterwards, Mr. Borglum signed an affidavit in which he stated that "[d]uring the public hearing" for the 1987 conditional-use permit "[i]t was understood that use of the site for parking equipment and stockpiling material would require adding fill, grading or leveling the site, and tiling the property to prevent it from flooding."

In March 2007, Marla Watje of the district noted in an e-mail to Chris Hughes that she did not believe that Ms. Borglum could obtain a third conditional-use permit on the property for, among other purposes, “an armored vehicle recreational facility,” “a driving course,” and “an indoor and outdoor shooting range, including related retail sales.” Watje wrote, “[M]y understanding [is] that . . . this does not fall under the original [conditional-use permit, and] the wetland is not exempt.” In April 2007, Hughes noted in an e-mail to Watje that he believed, based on the minutes about the 1995 conditional-use permit, that neither the 1987 nor 1995 permits permitted the Borglums to “fill wetland.” Hughes further noted: “If wetland has been filled since [October 1995] or will be filled WCA does apply and a [cease-and-desist order] should be issued so this gets figured out once and for all to protect the landowner and before any more wetland damage occurs.”

On April 4, 2007, DNR issued a cease-and-desist order requiring the Borglums “immediately to cease and desist any activity draining, filling or excavating the wetland” on the property. The order further provided that, pursuant to Minn. R. 8420.0290, the Borglums may be required to restore any wetlands damage if they did not “immediately” apply for and obtain an exemption authorizing the wetland destruction.<sup>3</sup> The Borglums applied for an approved-development exemption in late April 2007, based on their 1987 conditional-use permit. On December 15, 2010, after a complex but immaterial procedural posture, the district’s board of supervisors denied that application, and, on

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<sup>3</sup> Minn. R. 8420.0290, subs. 2–3 (2005), authorized DNR to issue cease-and-desist orders requiring landowners to apply to the district for a wetlands exemption and required DNR to issue a restoration-or-replacement order if the district denied the application.

January 14, 2011, DNR ordered Ms. Borglum to replace or restore wetlands on the property.

The Borglums appealed the district's decision and DNR's order to the board. The board's Dispute Resolution Committee, consisting of five members,<sup>4</sup> unanimously recommended to the board's 15-member board that it reverse the district's decision. On October 26, 2011, the board<sup>5</sup> unanimously reversed the district's decision and "request[ed]" that DNR rescind its restoration order.

This consolidated certiorari appeal by the district and DNR follows.

## DECISION

A board decision is subject to certiorari review by this court under Minn. Stat. §§ 14.63–.69 (2010). Minn. Stat. § 103G.2242, subd. 9(d) (2010); *In re Valley Branch Watershed Dist.*, 781 N.W.2d 417, 420 (Minn. App. 2010). We therefore review the record to determine whether the board's decision is in excess of its statutory authority or jurisdiction, the product of an unlawful procedure, affected by an error of law, unsupported by substantial evidence, or arbitrary or capricious. Minn. Stat. § 14.69 (2010). Agency decisions enjoy a "presumption of correctness." *In re Review of 2005 Annual Automatic Adjustment*, 768 N.W.2d 112, 119 (Minn. 2009). We will not disturb an agency's factual findings if the evidence substantially sustains them. Minn. Stat.

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<sup>4</sup> The five members of the dispute resolution committee were Paul Brutlag, Gerald Van Amburg, Louise Smallidge, LuAnn Tolliver, and Quentin Fairbanks.

<sup>5</sup> The board members were Paul Brutlag, Gerald Van Amburg, Louise Smallidge, LuAnn Tolliver, Brian Napstad, Chris Elvrum, Christy Jo Fogarty, Rebecca Flood, Todd Foster, Paul Langseth, Tom Loveall, Keith Mykleseth, David Schad, Rob Sip, and Gene Tiedemann.

§ 14.69(e) (2010); see *In re Denial of Eller Media Co.'s Applications*, 664 N.W.2d 1, 7 (Minn. 2003) (“We will not disturb an agency’s decision as long as the agency’s determination has adequate support in the record as required by the substantial evidence test.”). We review de novo an agency’s errors of law that arise from the meanings of words in statutes, *Greene v. Comm’r of Minn. Dep’t of Human Servs.*, 755 N.W.2d 713, 721 (Minn. 2008), and give “no deference” to the agency’s interpretation of a regulation that is clear and unambiguous, even if the regulation is the agency’s own, *In re Alexandria Lake Area Sanitary Dist. NPDES/SDS Permit No. MN0040738*, 763 N.W.2d 303, 310 (Minn. 2009). But we defer to an agency’s reasonable interpretations of unclear and ambiguous regulations when the agency promulgated the regulation being interpreted; the agency is legally required to enforce the regulation; and the regulation’s subject matter is within the agency’s technical training, education, and experience. *In re Cities of Annandale & Maple Lake NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 516 (Minn. 2007); *Alexandria*, 763 N.W.2d at 312–13.

“Public waters wetlands may not be drained, and a permit authorizing drainage of public waters wetlands may not be issued, unless the public waters wetlands to be drained are replaced by wetlands that will have equal or greater public value.” Minn. Stat. § 103G.221, subd. 1 (2010); accord Minn. R. 8420.0105, subp. 1 (2011) (“Wetlands must not be impacted unless replaced by restoring or creating wetland areas of at least equal public value.”). The WCA authorized during the relevant time the following approved-development exemption:

A replacement plan for wetlands is not required for development projects and ditch improvement projects in the state that have received preliminary or final plat approval or have infrastructure that has been installed or has local site plan approval, conditional use permits, or similar official approval by a governing body or government agency, within five years before July 1, 1991.

Minn. Stat. § 103G.2241, subd. 8 (2006). The Minnesota Rules incorporated those terms of the approved-development exemption verbatim and added to them:

Subdividers who obtained preliminary plat approval in the specified time period, and other project developers with one of the listed approvals timely obtained, provided approval has not expired and the project remains active, may drain and fill wetlands, to the extent documented by the approval, without replacement. Those elements of the project that can be carried out without changing the approved plan and without draining or filling must be done in that manner. If wetlands can be avoided within the terms of the approved plan, they must be avoided.

Minn. R. 8420.0122, subp. 8 (2005).

On appeal, the district and DNR do not argue that the Borglums' 1987 conditional-use permit did not exist within the five-year window or that it expired before the Borglums' April 2007 application. Therefore, the issues on appeal are whether, consistent with our standard of review, the board erred by determining that (1) the conditional-use permit "remains active"; (2) the conditional-use permit "documented" wetlands impact; and (3) the Borglums' use of the property is within the scope of the conditional-use permit and cannot be carried out without impacting wetlands.

### *Whether Project Remained Active*

The approved-development exemption does not apply unless “the project remains active.” Minn. R. 8420.0122, subp. 8 (2005). The Borglums’ 1987 conditional-use permit (CUP) authorized the Borglums to use the property for “Shop for land improvement business and storage of equipment and materials. Construction and excavation for a wildlife pond.” The district’s board of supervisors found, “The Borglums never constructed any structure authorized by the CUP on the parcel of land described in the CUP.” The board agreed that the Borglums “did not build a shop” on the property but concluded that the district “incorrectly applied the law to the facts when it determined the project is no longer ‘active,’” reasoning that the Borglums “use[d the property] for outside storage of materials, including materials used in their concrete recycling business . . . beg[inning] in 1987.”

On appeal, the district argues that the board committed reversible error by failing to defer to the district’s finding that the Borglums’ project was inactive, thus violating the board’s standard of review, which requires the board to affirm factual findings unless they are “clearly erroneous.” The district further argues that whether the project remains active is “purely a fact question” because “either a project is active, or it is not.” We agree that the board misstated the standard of review but disagree that this misstatement constitutes reversible error.

Agency decisions enjoy a “presumption of correctness.” *2005 Annual Automatic Adjustment*, 768 N.W.2d at 119. We may reverse or modify an agency’s decision “if the substantial rights of the petitioners may have been prejudiced because the administrative

finding, inferences, conclusion, or decisions are: . . . affected by other error of law.” Minn. Stat. § 14.69(d) (2010). The board’s standard of review requires it to “affirm . . . if [the district’s] findings of fact are not clearly erroneous” but requires no deference when determining whether the district “correctly applied the law to the facts.” Minn. R. 8420.0905, subp. 4(G) (2011). Whether “the project remains active” requires both a legal and factual inquiry. Determining what constitutes “the project” requires applying law to fact because Minn. R. 8420.0110, subp. 35 (2005), defines “project.” But determining whether the project “remains active” is a purely factual inquiry because no relevant authority defines those terms. Because the board was required to apply clearly erroneous deference to the district’s factual finding regarding whether the project “remains active,” the board erroneously stated that the standard of review was whether the district properly “applied the law to the facts.”

But we are not persuaded that the board’s erroneous statement of the standard of review prejudiced the district’s and DNR’s substantial rights. *See* Minn. Stat. § 14.69 (2010) (noting that reversal depends not only on the existence of error but also on whether the error prejudiced substantial rights). “[W]e will consider the agency’s expertise and special knowledge when reviewing an agency’s application of a regulation when application of the regulation is primarily factual and necessarily requires application of the agency’s technical knowledge and expertise to the facts presented.” *Annandale & Maple Lake*, 731 N.W.2d at 515 n.9 (quotation omitted). The board determined that “[t]he record reflects” that “[t]he Borglums did . . . use the [property] for outside storage of materials . . . beg[inning] in 1987” and “continue to do so.” Moreover,

Watje of the district admitted in a March 2007 e-mail that the Borglums had been “operating with a Conditional Use Permit (CUP) [on the property] since June of 1987 for . . . storage of equipment and materials.”

We conclude that the board’s misstatement of the standard of review does not warrant reversal.

*Whether 1987 Conditional-Use Permit Documented Wetlands Impact*

The approved-development exemption only permits a person to drain wetlands without replacement “to the extent documented by the approval.” Minn. R. 8420.0122, subp. 8 (2005). The district’s board of supervisors found that “the 1987 CUP does not document any approval by the County of the filling of wetlands.” The board disagreed, concluding that the necessary documentation was implied in the 1987 conditional-use permit, express documentation is unnecessary because requiring express documentation would be “inconsistent with the purpose of the exemption,” and the Borglums are “entitled to impact wetlands to the extent necessary to carry on the business approved in the 1987 CUP.”

On appeal, the district argues that the board erred because the documentation provision clearly and unambiguously requires express documentation. We disagree.

We review de novo as a question of law “an agency’s interpretation of its own regulations.” *Anmandale & Maple Lake*, 731 N.W.2d at 516. Determining whether to give deference to an agency’s interpretation requires us to consider several factors. *Id.* “These factors include [(1)] whether the agency is legally required to enforce and administer the regulation under review and [(2)] whether the meaning of the words in the regulation is

clear and unambiguous or is unclear and susceptible to different reasonable interpretations—ambiguous.” *Id.* If we conclude that the regulation is clear and unambiguous, we “need not defer to the agency’s interpretation and may substitute [our] own judgment for that of the agency.” *Id.* If we conclude that the regulation is unclear and ambiguous, “we will defer to the agency’s expertise and special knowledge when the agency’s interpretation . . . is reasonable under the circumstances of *this case*” if the regulation is the agency’s “own regulation” and “the subject matter of the regulation is within the agency’s technical training, education, and experience.” *Alexandria*, 763 N.W.2d at 312–13 (quotations and citation omitted).

In this case, the documentation provision is part of the board’s own regulation, which the board is legally required to enforce and administer. *See* Minn. Stat. § 103G.2242, subd. 1 (2010) (noting that “[the board], in consultation with the commissioner, shall adopt rules governing . . . public waters work permits affecting public waters wetlands under section 103G.245”); *Drum v. Minn. Bd. of Water & Soil Res.*, 574 N.W.2d 71, 74 (Minn. App. 1998) (“[The board] is charged with the ultimate responsibility for implementing the [WCA]. . . .” (citing Minn. Stat. § 103G.2242, subd. 9 (1996))); *see also Annandale & Maple Lake*, 731 N.W.2d at 512 (“[T]he agency decision-maker is presumed to have the expertise necessary to decide technical matters within the scope of the agency’s authority, and judicial deference, rooted in the separation of powers doctrine, is extended to an agency decision-maker in the interpretation of statutes *that the agency is charged with administering and enforcing.*” (quotation omitted)). We must therefore first determine whether the documentation

provision in the approved-development exemption is unclear and ambiguous and, if it is, second determine whether we should defer to the board's interpretation.

*Unclear and Ambiguous*

We first consider whether the documentation provision is clear and unambiguous, in light of “the apparent purpose of the regulation as a whole,” or unclear and ambiguous due to it being “susceptible to more than one reasonable interpretation.” *Alexandria*, 763 N.W.2d 303, 310–11 (quotations omitted) (“[O]ur determination of whether words or phrases are ambiguous does not depend on a reading of those words or phrases in isolation, but relies on the meaning assigned to the words or phrases in accordance with the apparent purpose of the regulation as a whole.” (quotation omitted)). No binding authority defines the verb form of “document.” *Black's Law Dictionary* defines it as “[t]o support with records, instruments, or other evidentiary authorities” and “[t]o record; to create a written record of <document a file>.” *Black's Law Dictionary* 520 (8th ed. 2004). The Borglums argue that the board's interpretation that documentation is implied is reasonable, arguing that in 1987 they could not have documented the impact their activities would have on wetlands under the WCA because the WCA had not yet been enacted. See Minn. R. 8420.0100, subp. 3 (2011) (“The [Minnesota] Wetland Conservation Act became effective on January 1, 1992 . . .”). The district counters that, although the WCA was not in force in 1987, the county did have zoning regulations in 1987 that regulated wetlands and required a person to obtain a conditional-use permit before “fill[ing] or reclaim[ing] . . . wetland,” thereby rendering inclusion of express mention of wetlands in conditional-use permits reasonable. Both arguments have merit.

We conclude therefore that the documentation provision is susceptible to at least two different reasonable interpretations and is, consequently, ambiguous.

### *Deference*

We second consider whether we should defer to the board's interpretation that documentation may be implied in this case. "[W]e will defer to the agency's expertise and special knowledge when the agency's interpretation . . . is reasonable under the circumstances of *this case*" if the regulation is the agency's "own regulation" and "the subject matter of the regulation is within the agency's technical training, education, and experience." *Alexandria*, 763 N.W.2d at 312–13 (quotations and citation omitted). It is undisputed that the regulation is the board's own regulation and that the approved-development exemption is within the board's technical training, education, and experience. *See Drum*, 574 N.W.2d at 74 (noting that the board "is charged with the ultimate responsibility for implementing the [WCA]"). The remaining inquiry is therefore whether the board's interpretation of the regulation is reasonable in *this case*. *See Alexandria*, 763 N.W.2d at 313.

Agency decisions enjoy a "presumption of correctness." *2005 Annual Automatic Adjustment*, 768 N.W.2d at 119. The board interpreted the documentation provision to permit implied documentation in this case to avoid being "inconsistent with the purpose of the exemption," reasoning that "[a]t the time the Borglums received their 1987 CUP, there were no wetlands regulated under [the] WCA." The board acknowledged that the county's 1987 zoning ordinance did define wetlands at the relevant time but discounted its impact on the board's outcome because, in this case, "the Waseca County Office of

Planning informed the Borglums on March 10, 1987, that the County did not consider the 'low area' on their property to be a wetland." We conclude therefore that the board's interpretation of "to the extent documented by the approval" to permit implied documentation was reasonable in this case and, consequently, defer to it.

*Whether Wetlands are Avoidable within Scope of 1987 Conditional-Use Permit*

The approved-development exemption provides: "Those elements of the project that can be carried out without changing the approved plan and without draining or filling must be done in that manner. If wetlands can be avoided within the terms of the approved plan, they must be avoided." Minn. R. 8420.0122, subp. 8 (2005). The district's board of supervisors found that "Borglum can continue the use approved in the 1987 CUP without additional impacts to wetlands." The board disagreed, finding that "[r]equiring [the Borglums] to avoid wetland impacts within the six acre portion of the parcel subject to their application is simply not consistent with the 'terms of the approved plan'" because "the 1987 CUP allows the Borglums to use the entire 11 acre parcel for outside storage of materials."

*Unclear and Ambiguous*

We first consider whether the avoidance provision is unclear and ambiguous. The district argues that the board's decision is not entitled to deference because the avoidance provision "clearly requires developers to avoid wetlands, if possible, while carrying out the activities authorized by their official approval." The district's argument is unpersuasive. We agree that the avoidance provision clearly and unambiguously requires some level of wetland avoidance. But the avoidance provision is unclear and ambiguous

regarding the degree of avoidance required, conditioning that determination on evaluating the feasibility of carrying out the project's elements while avoiding wetlands "without changing the approved plan" and "within the terms of the approved plan." Minn. R. 8420.0122, subp. 8 (2005).

### *Deference*

We second consider whether we should defer to the board's interpretation of the avoidance provision that the terms of the Borglums' 1987 conditional-use permit could permit them to not avoid wetlands on the property. Agency decisions enjoy a "presumption of correctness." *2005 Annual Automatic Adjustment*, 768 N.W.2d at 119. We may consider an agency's "expertise and special knowledge" when determining whether "an agency's interpretation of a regulation is reasonable." *Annandale & Maple Lake*, 731 N.W.2d at 505. In this case, the board promulgated and is required to enforce the avoidance provision. Understanding the feasibility of the project and the scope of its approval with respect to wetlands impacts are within the board's expertise. In light of the board's expertise, it was reasonable for the board to determine that a conditional-use permit authorizing outdoor storage of equipment and materials throughout the entire property required impacting the wetlands throughout the property. We therefore defer to the board's interpretation of the avoidance provision.

The district challenges the reasonableness of the board's interpretation on three grounds. First, the district argues that the board's interpretation "effectively reads the avoidance clause out of" the rule, but we disagree because the regulation conditions wetland avoidance on "the terms of the approved plan," signaling that the terms of an

approved plan could permit development without wetland avoidance. Second, the district argues that the Borglums' conduct shows that they can avoid the wetlands within the terms of the conditional-use permit because they did so "for the 20 years prior to the December 2007 hearing in this matter," but the district's argument is unpersuasive. Merely because the Borglums previously avoided the wetlands does not mean that they can continue to do so within the terms of the 1987 conditional-use permit. Third, the district argues that the board's interpretation is not reasonable because it "leads to the absurd result that any CUP issued in the relevant time frame permits all drainage and fill activities." We disagree. "[R]easonableness is necessarily determined using a case-by-case inquiry." *Id.* at 525. Simply because the board's interpretation of the avoidance provision in this case permits the Borglums to conduct their business on the property without avoiding wetlands does not mean that it would be reasonable to interpret another authorization's terms as broadly.

Because we defer to the board's determination that the Borglums satisfied the approved-development exemption, we do not reach the Borglums' arguments that the district should be equitably estopped from denying the board's approved-development exemption and arguments specifically contesting DNR's restoration-or-replacement order.

**Affirmed.**

**COMMITTEE RECOMMENDATIONS**

***Southern Water Planning Committee***

1. Cottonwood County Local Water Management Plan Amendment – Paul Langseth -  
***DECISION ITEM***
  
2. Freeborn County Local Water Management Plan Amendment – Paul Langseth –  
***DECISION ITEM***
  
3. Houston County CLWMP Five-Year Update Extension Request – Paul Langseth -  
***DECISION ITEM***
  
4. Murray County Local Water Management Plan Amendment – Paul Langseth –  
***DECISION ITEM***
  
5. Wabasha County CLWMP Extension Request – Paul Langseth – ***DECISION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Cottonwood County Local Water Management Plan Amendment

Meeting Date:

Agenda Category: [X] Committee Recommendation [ ] New Business [ ] Old Business

Item Type: [X] Decision [ ] Discussion [ ] Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: Mark Hiles, Board Conservationist

Reviewed by: Southern Water Planning Committee(s)

Presented by: Paul Langseth

[ ] Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: [ ] Resolution [X] Order [ ] Map [X] Other Supporting Information

Fiscal/Policy Impact

- [X] None [ ] General Fund Budget
[ ] Amended Policy Requested [ ] Capital Budget
[ ] New Policy Requested [ ] Outdoor Heritage Fund Budget
[ ] Clean Water Fund Budget
[ ] Other:

ACTION REQUESTED

Decision

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)
By Board Order, the Board of Water and Soil Resources (Board) approved the Cottonwood County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on June 27, 2007. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Cottonwood County to update the Plan's implementation section by July 1, 2012.

On October 4, 2011, the Cottonwood County Board of Commissioners resolved to amend its five-year implementation section as directed by BWSR. The County followed the process for amending as described within the Comprehensive Local Water Management guidance document developed by BWSR.

On May 16, 2012, the BWSR regional staff received the required documentation and 2012 Amendment to the Cottonwood County Comprehensive Local Water Plan. The 2012 Amendment contains an Executive Summary and the new July 2012- July 2017 implementation section. The amendment has prioritized action items in the implementation section of the plan on a major watershed scale. The implementation section addresses the following priority concerns:

- Improve Surface Water Quality
• Protect Ground Water
• Feedlot & Sub-Surface Sewage Treatment Systems (SSTS)

BWSR has actively participated with and provided guidance and recommendations to Cottonwood County and the task force throughout this amendment process. The new five-year implementation section is in conformance with the requirements of Minnesota Statute 103B and guidance developed by BWSR. The Board's Southern Water Planning Committee (Committee) will meet on August 21, 2012 to review the Cottonwood County Plan Addendum. The Committee's recommendation of the Cottonwood County July 2012 - July 2017 Implementation Program Addendum will be presented to the full Board for review and action.

Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
St. Paul, Minnesota 55155

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In the Matter of Reviewing the Local Water Management Plan Amendment for **Cottonwood County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

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ORDER  
APPROVING  
LOCAL WATER  
MANAGEMENT PLAN  
AMENDMENT

**Whereas**, on June 27, 2007, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Cottonwood County 2007 – 2017 Comprehensive Local Water Plan Update (Plan), which contained a 2006 – 2012 five-year Implementation section; and

**Whereas**, this Board Order stipulated that Cottonwood County was required to update the implementation section by July 1, 2012; and

**Whereas**, the Cottonwood County Board of Commissioners submitted the Cottonwood County Plan 2012 Amendment to the Board on May 15, 2012; and

**Whereas**, this 2012 Amendment contains the updated five-year implementation section as ordered by the Board; and

**Whereas**, the Board has completed its review of the 2012 Amendment.

**Now Therefore**, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

**FINDINGS OF FACT**

1. On October 4, 2011, Cottonwood County passed and submitted a resolution stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.
2. On October 13, 2011, Board staff provided information on the amendment process to Cottonwood County.
3. On December 19, 2011, Cottonwood County provided proper notice to local units of government and state agencies of the County's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.
4. On January 5, 2012, Cottonwood County conducted an open house to initiate the five-year implementation section update. Cottonwood County convened its water plan task force to develop the five-year update through five meetings held January, February, and March 2012.
5. Cottonwood County received written comments from the Minnesota Department of Agriculture, the Minnesota Pollution Control Agency and the Minnesota Board of Water and Soil Resources. The Minnesota Board of Water and Soil Resources, Minnesota Department of Natural Resources, and Minnesota Pollution Control Agency attended the water plan task force meeting(s) and provided comments.

6. No other state agency or local government unit provided written comments to Cottonwood County.
7. The final document developed by Cottonwood County, which includes the revised five-year implementation section July 2012 – July 2017 is entitled the Cottonwood County Comprehensive Local Water Management Plan 2007-2017 Amendment July 2012.
8. On April 24, 2012, after providing for proper public notice, Cottonwood County conducted a public hearing on the proposed 2012 Amendment. No additional comments were submitted at the hearing.
9. On May 16, 2012, the BWSR received the Cottonwood County 2012 Amendment, a record of the public hearing, and copies of all written comments pertaining to the 2012 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.
10. On August 21, 2012, the Board's Southern Water Planning Committee (Committee) reviewed the Cottonwood County 2012 Amendment, pursuant to 103B.301 and guidelines established by the Board.
11. Board regional staff provided its recommendation of approval to the Committee.
12. The Committee voted to recommend approval to the full Board at its next scheduled meeting.
13. This 2012 Amendment will be in effect until **July 1, 2017**.

### **CONCLUSIONS**

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Amendment of Cottonwood County pursuant to Minnesota Statutes, 103B.314, Subd. 6.
2. The Cottonwood County 2012 Amendment attached to this Order states goals, objectives, and actions the County will address in the five-year implementation section July 2012 – July 2017. The 2012 Amendment, as well as the previously approved Cottonwood County 2007 – 2017 Comprehensive Local Water Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

### **ORDER**

The Board hereby approves the attached 2012 Amendment of the Cottonwood County Water Management Plan for July 2012 – July 2017. Cottonwood County will be required to provide for a complete update of its Water Management Plan prior to July 1, 2017.

Dated at Marshall, Minnesota, this **23rd day of August 2012**.

**MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair



**DATE:** July 26, 2012

**TO:** Jeff Nielsen, BWSR Southern Regional Supervisor

**FROM:** Mark L. Hiles, BWSR Board Conservationist

**SUBJECT:** **Cottonwood County Local Water Management Plan Amendment – Final Review**

On June 27, 2007, the Board of Water and Soil Resources (BWSR), by board order, approved the Cottonwood County June 27, 2007 – July 1, 2017 ten-year Comprehensive Local Water Plan Update. The Plan contained an implementation section with goals, objectives, and action steps covering a five-year period of 2007 - 2012. The Board Order stipulated that Cottonwood County was required to revise / update this implementation section by July 1, 2012.

On October 4, 2011, the Cottonwood County Board of Commissioners resolved to amend its five-year implementation section as directed by BWSR. The County followed the process for amending as described within the Comprehensive Local Water Management guidance document developed by BWSR.

On May 16, 2012, the BWSR regional staff received the required documentation and 2012 Amendment to the Cottonwood County Comprehensive Local Water Plan. The 2012 Amendment contains an Executive Summary and the new July 2012- July 2017 implementation section. The amendment has prioritized action items in the implementation section of the plan on a major watershed scale. The implementation section addresses the following priority concerns:

- Improve Surface Water Quality
- Protect Ground Water
- Feedlot & Sub-Surface Sewage Treatment Systems (SSTS)

I have actively participated with and provided guidance and recommendations to Cottonwood County and the task force throughout this amendment process. I believe the new five-year implementation section is in conformance with the requirements of Minnesota Statute 103B and guidance developed by BWSR. I recommend approval of the Cottonwood County July 2012 - July 2017 Implementation Program Amendment. Finally - I look forward to assisting Cottonwood County in the implementation of this revision of their Local Water Management Plan. Water Plan Coordinator Kay Clark should be commended for her leadership throughout the plan amendment process.

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Marshall</i>	<i>New Ulm</i>	<i>Rochester</i>	<i>Saint Paul</i>
3217 Bemidji Avenue N. Bemidji, MN 56601 phone (218) 755-4255 fax (218) 755-4201	217 S. 7th Street Suite 202 Brainerd, MN 56401 phone (218) 828-2383 fax (218) 828-6036	394 S. Lake Avenue Room 403 Duluth, MN 55802 phone (218) 723-4752 fax (218) 723-4794	1004 Frontier Drive Fergus Falls, MN 56537 phone (218) 736-5445 fax (218) 736-7215	1400 E. Lyon Street Box 267 Marshall, MN 56258 phone (507) 537-6060 fax (507) 537-6368	261 Highway 15 S. New Ulm, MN 56073 phone (507) 359-6074 fax (507) 359-6018	2300 Silver Creek Road N.E. Rochester, MN 55906 phone (507) 280-2874 fax (507) 285-7144	520 Lafayette Road N. Saint Paul, MN 55155 phone (651) 296-3767 fax (651) 297-5615

## **A. Executive Summary**

Cottonwood County is located in southwestern Minnesota, adjacent to Murray, Redwood, Brown, Watonwan, Jackson, and Nobles counties. The City of Windom is the county seat. Cottonwood County's population in the 2010 census was 11,687 and the City of Windom's population was 4,646.

The Coteau des Prairies - a conspicuous ridge extending northwest to southeast across the region - bisects Cottonwood County into two major drainages. Watersheds of the Cottonwood, Watonwan, and to a lesser extent the Little Cottonwood and Blue Earth, drain in a northeasterly direction into the Minnesota River, which meets the Mississippi River at St. Paul. The West Fork Des Moines River watershed drains south into Iowa and eventually into the Mississippi River.

### **A.1 Purpose & Introduction**

**The Cottonwood County Local Water Management Plan is intended to identify existing and potential water issues in the context of watershed units and groundwater systems, informing specific implementation actions to achieve goals for sound hydrological management of water and related resources.**

Requirements of a local water plan are set forth in current state statute (M.S. 103B.311, Subd. 4.). The plan must address management of water, effective environmental protection, and efficient resource management, and must be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or ground water systems. This Water Plan is a ten-year management plan with a five-year implementation schedule.

This is the plan amendment for the third edition of the local water management plan for Cottonwood County, which was completed in March of 2007 by a Public Hearing before the Cottonwood County Board of Commissioners.

The County Board of Commissioners adopted a resolution on October 4, 2011 to update this plan, according to Minnesota Statutes now in effect.

#### **Major accomplishments under Cottonwood County's previous water management plans included from 2007 - 2011:**

- The Cottonwood County Commissioners entered into an 'Agreement for the Provision of Services' June of 2011 with the Cottonwood Soil and Water Conservation District. Programs to be administered include:
  - Local Water Management Coordinator
  - Management of the Natural Resources Block Grant Programs
  - Administrator of the Wetlands Conservation Act
  - Coordination of the Feedlot Program
  - Coordination of the SSTS Program

- In 2006, the Cottonwood Soil and Water Conservation District contracted with the Greater Blue Earth River Basin Alliance (GBERBA) to provide the Administrative and Technical Coordinators (equal to one FTE) for the Joint Powers Organization.
- Managed and provided funds for county residents to test well water for nitrates and bacteria.
- Promoted the sealing of abandoned wells, and provided cost-share to seal 136 wells.
- Promoted the replacement of non-compliant septic systems and assisted residents with the installation of systems for new construction: 146 installed during 2007-2011. Maintained files and data base with pertinent information.
- Secured funds for the Low Interest Loan Program through the MN Department of Agriculture to provide funding for installation of septic systems, agricultural waste systems and conservation tillage equipment continue to look for additional sources of this funding.
- Worked with MPCA as a Delegated County for the Feedlot Program, and maintained the feedlot data base.
- Worked with county livestock producers in registering their feedlots and completing their Manure Management Plans.
- Provided county livestock producers with funding for testing samples of manure.
- Provided technical assistance and guidance in developing Well Head Protection Plans for the Cities of Comfrey and Mountain Lake.
- Participated in the 13 County Water Planners organization.
- Administered the Wetland Conservation Act
- Administered the Shoreland and Flood Plain Management Program.
- Partnering with the HLWD, WFDNR Coordinator (and others) on the West Fork Des Moines River TMDL Implementation Plan, and the WFDNR TMDL Implementation Project to complete a Level III Feedlot Inventory in the Des Moines River Watershed.
- Partnering with RCRC (and others) on the Cottonwood River Fecal Coliform Bacteria and Turbidity TMDL Implementation Plan.
- Updating of the Cottonwood County Subsurface Sewage Treatment System Ordinance #38 with approval in 2012.
- Applied for and received a Mississippi River Basin Initiative grant through the NRCS for the Little Cottonwood River Watershed.
- Received a BWSR Clean Water Fund grant for the hiring of a MRBI Technician to be shared with the Cottonwood and Brown SWCDs.
- Since 1998, Cottonwood County, along with Brown and Nicollet Counties, sponsor and help coordinate the annual Children's Water Festival held in the month of March for 4th grade students of the three counties. Approximately 900 students attend each year.
- Provided funding for 5th Grade Conservation Day, which is a joint activity between Jackson and Cottonwood SWCDs.
- Provided funding for the Southwest MASWCDE Environmental Fair attended by 6th grade classes of Cottonwood County since 1992.
- Continued support and assistance with the State of Minnesota Des Moines River Watershed Conservation Resource Enhancement Program, RIM Buffer Program and the RIM/WRP conservation programs.
- Provided funds to plant trees in shelterbelts and wildlife plantings.

- Assisted with the establishment and continuing effort of the Windom and Mountain Lake Tree Commissions.
- Provided funds for a weed-badger used in weeding the tree plantings.

The Cottonwood Soil and Water Conservation District (SWCD) administers the Local Water Management Program in Cottonwood County. Cottonwood County agreed to allow the Cottonwood SWCD to manage the Plan update process and convene the Cottonwood County Local Water Management Task Force.

Task Force membership currently includes:

**2011-12 Local Water Management Plan Task Force Members**

- Phyllis Bakken, County Planning Commission, Agriculture
- Karen Boysen, Natural Resources Conservation Service
- Dave Bucklin, Cottonwood Soil and Water Conservation District
- Kay Clark, Cottonwood Soil and Water Conservation District
- Andy Geiger, Cottonwood County Environmental Office, Planning & Zoning
- Renee Harnack, Cottonwood Soil & Water Conservation District
- Mike Haugen, City of Windom
- Kelly Heather Pfarr, Natural Resources Conservation Service
- Norm Holmen, Cottonwood County Commissioner
- Dominic Jones, Red Rock Rural Water System
- Lloyd Kalfs, Cottonwood Soil and Water Conservation District, Feedlots, SSTS
- Clark Lingbeek, Cottonwood Soil and Water Conservation District Supervisor, Township Official, Pheasants Forever

**Other Participants**

- Ryan Doorenbos, MN DNR Fisheries
- Curt Gode, Germantown Township Supervisor
- Doug Goodrich, Redwood-Cottonwood Rivers Control Area
- Mark Hiles, Board of Water and Soil Resources
- Brian Hoskins, MRBI Technician Little Cottonwood River Watershed
- Tom Kresko, MN DNR Area Hydrologist
- Scott MacLean, Minnesota Pollution Control Agency
- Tom Maher, Brown Soil & Water Conservation District
- Lauren Michelsen, West Fork Des Moines River Watershed Coordinator
- Margaret Peeters, Heron Lake Watershed District
- Katherine Pekarek-Scott, Minnesota Pollution Control Agency
- Hans Remmers, Southbrook Township Supervisor
- Jan Voit, Heron Lake Watershed District
- Mark Werner, Germantown Township Supervisor

**A.1.a Public and Internal Forums**

- 10-4-2011 Cottonwood County Board of Commissioners approve resolution of intent to revise and update the local water management plan.
- 11-16-2011 Meeting with Board of Water and Soil Resources reviewing the water plan update criteria. (Attendance: Kay Clark, Andy Geiger and Mark Hiles)
- 12-2-2011 Notice of 'Kick-Off' Meeting for the Water Plan Task Force and the beginning of the water plan revision process.

- 12-14-2011 Meeting with Water Plan Task Force to review the water plan amendment process. (Attendance 12)
- 12-19-2011 Notice of Decision to Revise and Update the Local Water Management Plan provided by email and/or postal service to local units of government, organizations and responsible agencies as suggested and required (70 notices mailed). Meeting Notice published in the Windom Citizen, Mountain Lake Observer and Cottonwood County Shopper.
- 1-5-2012 Cottonwood County Water Task Force 'Open' House Meeting held at the Cottonwood SWCD Office. (Attendance 9)
- 1-11-2012 Water Task Force Meeting – Focus - Cottonwood River Watershed. (Attendance 13)
- 1-18-2012 Water Task Force Meeting – Focus – Des Moines River Watershed. (Attendance 12)
- 2-1-2012 Water Task Force Meeting – Focus – Little Cottonwood River Watershed. (Attendance 10)
- 2-8-2012 Water Task Force Meeting – Focus – Watonwan and Blue Earth River Watersheds (Attendance 8)
- 3-21-2012 Water Task Force Meeting - Plan Amendment Review. (Attendance 6)
  
- 3-8-2012 Meeting notice published as legal ad in Cottonwood County Shopper.
- 3-10-2012 Meeting notice published as display ad in Cottonwood County Citizen. Ten days before the Public Hearing.
  
- 3-24-2012 Public Hearing on Local Water Management Plan Amendment before the County Board of Commissioners.
  
- 5-15-2012 Date revised plan sent to Board of Water and Soil Resources.
  
- August 2012 Approval by the Board of Water and Soil Resources.

**A.1.b Plan Adoption and Amendment**

Upon approval of this plan by the Minnesota Board of Water and Soil Resources (BWSR), Cottonwood County has up to 120 days to pass and Adoption and Implementation Resolution. After final adoption, the plan may be amended in a similar process, by petitioning the BWSR Board, scheduling a public hearing, and sending notice to the required parties.

**A.2 Description of Priority Concerns**

The Priority Concerns listed below were selected by the Water Plan Task Force members by consensus during the 2006-2007 plan development and reviewed by the Water Task Force in 2011-2012. While the assessment of priority concerns utilized the best available data, this plan rests solidly on information and analysis contained in previous editions of the county's local water management plan.

**Priority Concern 1. Improve Surface Water Quality.**

Protecting soil from erosion is always a challenge. Improved land use and agricultural best management practices are necessary to address the quality of lakes, wetlands and rivers. MPCA listing of impaired waters requires local strategies to meet Total Maximum Daily Load (TMDL) standards.

**Priority Concern 2. Protect Groundwater.**

Portions of Cottonwood County have enjoyed adequate groundwater supplies, while other areas have experienced difficulty with sufficient supply. There is increasing concern with groundwater quality and long-term supply. Efforts to protect groundwater should be focused on Drinking Water Supply Management Areas (DWSMA) and surficial aquifer areas.

**Priority Concern 3. Feedlots & SSTS (Sub-Surface Sewage Treatment Systems).**

Nutrient management plans and controlling feedlot runoff are important tools in preventing water quality issues. There are also many dispersed farmsteads and rural residential properties with outdated septic systems; there is a great need and demand to continue upgrades.

**A.3 Summary of Goals, Actions, and Projected Costs**

Goals and Actions were selected to address priority concerns on a watershed basis, with a focus on principles of sound hydrological management. A watershed based approach will help in prioritizing future funding opportunities for Cottonwood County.

**Priority Concern 1. Improve Surface Water Quality.**

This concern will be addressed to prevent further degradation of stream and lake water quality. Objectives include protecting soil from erosion and agricultural runoff, impacts of drainage management, wetland restoration and management, and addressing TMDL impaired waters with the promotion of conservation practices in the watersheds.

Implementation actions include promotion and education, providing technical assistance for conservation programs and best management practices; seeking financial assistance for conservation practices; develop a Drainage Management Plan for Cottonwood County and develop a GIS layer for all public drainage systems in the County; promote conservation drainage; and work with local, state and federal partners on measures to improve water quality and provide technical and administrative support for watershed work in TMDL impaired watersheds.

Projected total costs over the five years from the *'Implementation to Address Priority Concerns' – 'Goals and Objectives – Action'* section of the management plan amendment include approximately \$1,694,850 for projects and financial

assistance, \$1,814,950 for technical and administrative assistance and \$40,500 for outreach and education. All dollar figures are estimates and recognize approximate costs (technical assistance calculated adding specific action items and twenty-five percent of the project costs). There will also be in-kind associated with each action item written.

### **Priority Concern 2. Protect Groundwater.**

This concern will be addressed to assure long-term quality and quantity of groundwater supplies, with a priority for Drinking Water Supply Management Areas (DWSMA) and surficial aquifers. Objectives include supporting wellhead protection, preventing groundwater contamination, and protecting long-term supplies.

Implementation actions include providing technical assistance for conservation programs and best management practices; seeking financial assistance for landowners; outreach and education; maintenance of GIS layers; testing well water quality; providing assistance and funding to seal unused wells; and work with cities and water providers for to protect our long-term water supplies.

Projected total costs over the five years from the *'Implementation to Address Priority Concerns' – 'Goals and Objectives – Action'* section of the management plan amendment include approximately \$527,812 for projects and financial assistance, \$275,938 for technical and administrative assistance, and \$13,000 for outreach and education. All dollar figures are estimates and recognize approximate costs (technical assistance calculated adding specific action items and twenty-five percent of the project costs). There will also be in-kind associated with each action item written.

### **Priority Concern 3. Feedlots & SSTS (Sub-Surface Sewage Treatment Systems).**

This concern will be addressed the protection of public waters and assist residents in meeting feedlot and septic standards, focusing on immediate health and safety needs. Objectives include assisting feedlot owners to maintain compliance with state statutes and continuing to bring nonconforming septic systems into compliance with state standards.

Implementation actions include providing education and outreach, technical assistance with nutrient and manure plan development, maintenance of GIS layers, review ordinances, and providing financial, technical assistance to upgrade feedlots (with emphasis on the Level II Inventory results), and upgrading non-compliant septic systems.

Projected total costs over the five years from the *'Implementation to Address Priority Concerns' – 'Goals and Objectives – Action'* section of the management plan amendment include approximately \$3,353,625 for projects and financial

assistance, \$1,132,875 for technical and administrative assistance, and \$24,000 for outreach and education. All dollar figures are estimates and recognize approximate costs (technical assistance calculated adding specific action items and twenty-five percent of the project costs). There will also be in-kind associated with each action item written.

#### **A.4 Consistency with Local, State and Regional Plans**

Cottonwood County Environmental Office administers the County's comprehensive land use plan and zoning ordinance. The Cottonwood SWCD and the Cottonwood County Environmental Office work closely together to ensure that environmental issues are handled consistently throughout Cottonwood County. The Cottonwood County 2005 Comprehensive Plan identifies issues, goals, objectives, policies and tasks that have been reviewed for consistency with the 2007 water management plan.

#### **A.5 Summary of Recommended Amendments to Other Plans and Official Controls**

No specific amendments are recommended at this time. Action items include updates to the comprehensive plan and zoning ordinances within this document's management timeline. It would be recommended to incorporate data from this plan into other local plans and controls when they are updated.

### **B. Priority Concerns**

#### **B.1 Identification of Priority Concerns**

Priority Concerns for local water management were selected by the Cottonwood County Local Water Management Plan Task Force members after reviewing the concerns submitted by state and local agencies and other stakeholders during the 2005-2006 planning sessions.

For the amended document, concerns and comments were requested from:

- Minnesota Board of Water and Soil Resources
- Minnesota Department of Agriculture
- Minnesota Department of Health
- Minnesota Department of Natural Resources
- Minnesota Environmental Quality Board
- Minnesota Pollution Control Agency
- Cottonwood County Environmental Office
- Cottonwood Soil and Water Conservation District
- Natural Resources Conservation District, Windom Field Office

Local water management concerns and comments were received from:

- Minnesota Board of Water and Soil Resources
- Minnesota Pollution Control Agency
- Soil and Water Conservation District



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Freeborn County Local Water Management Plan Amendment

Meeting Date:

Agenda Category: [X] Committee Recommendation [ ] New Business [ ] Old Business

Item Type: [X] Decision [ ] Discussion [ ] Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: Chris Hughes, Board Conservationist

Reviewed by: Southern Water Planning Committee(s)

Presented by: Paul Langseth

[ ] Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: [ ] Resolution [X] Order [ ] Map [X] Other Supporting Information

Fiscal/Policy Impact

- [X] None [ ] General Fund Budget
[ ] Amended Policy Requested [ ] Capital Budget
[ ] New Policy Requested [ ] Outdoor Heritage Fund Budget
[ ] Clean Water Fund Budget

[ ] Other:

ACTION REQUESTED

Decision

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)
By Board Order, the Board of Water and Soil Resources (Board) approved the Freeborn County 2006 - 2015 Comprehensive Water Management Plan (Plan) on August 24, 2006. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Freeborn County to update the Plan's implementation section by December 31, 2011. Freeborn County followed the amendment process guidelines established by the Board and submitted their 2011 - 2015 Water Management Plan Addendum on March 8, 2012.

Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
St. Paul, Minnesota 55155

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In the Matter of Reviewing the Local Water Management Plan Amendment for **Freeborn County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

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ORDER  
APPROVING  
LOCAL WATER  
MANAGEMENT PLAN  
AMENDMENT

**Whereas**, on August 24, 2006, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Freeborn County 2006 – 2015 Comprehensive Local Water Plan Update (Plan), which contained a 2006 – 2011 five-year Implementation section; and

**Whereas**, this Board Order stipulated that Freeborn County was required to update the implementation section by December 31, 2011; and

**Whereas**, the Freeborn County Board of Commissioners submitted the Freeborn County Plan 2012 Amendment to the Board on May 15, 2012; and

**Whereas**, this 2012 Amendment contains the updated five-year implementation section as ordered by the Board; and

**Whereas**, the Board has completed its review of the 2012 Amendment.

**Now Therefore**, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

**FINDINGS OF FACT**

1. On October 20, 2011, Freeborn County passed and submitted a resolution stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.
2. On April 27, 2011 and May 9, 2011, and May 17, 2011 Board staff provided information on the amendment process to Freeborn County.
3. On October 20, 2011 Freeborn County provided proper notice to local units of government and state agencies of the County's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.
4. Freeborn County received written comments from the Minnesota Department of Agriculture, the Minnesota Pollution Control Agency, the Minnesota Department of Health, Mower County, City of Glenville, and Moscow Township.
5. No other state agency or local government unit provided written comments to Freeborn County.

6. The final document developed by Freeborn County, which includes the revised five-year implementation section, is entitled the Freeborn County 2011 Mid-Term Amendments Comprehensive Water Plan 2006-2015.
7. On February 7, 2012, after providing for proper public notice, Freeborn County conducted a public hearing on the proposed 2012 Amendment. No additional comments were submitted at the hearing.
8. On February 23, 2012, the BWSR received a record of the public hearing, and copies of all written comments pertaining to the 2012 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.
9. On March 8, 2012 BWSR received the Freeborn County 2012 Amendment
10. On August 21, 2012, the Board's Southern Water Planning Committee (Committee) reviewed the Freeborn County 2012 Amendment, pursuant to 103B.301 and guidelines established by the Board.
11. Board regional staff provided its recommendation of approval to the Committee.
12. The Committee voted to recommend approval to the full Board at its next scheduled meeting.
13. This 2012 Amendment will be in effect until **December 31, 2015**.

### **CONCLUSIONS**

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Amendment of Freeborn County pursuant to Minnesota Statutes, 103B.314, Subd. 6.
2. The Freeborn County 2012 Amendment attached to this Order states goals, objectives, and actions the County will address in the five-year implementation section 2011 – 2015. The 2012 Amendment, as well as the previously approved Freeborn County 2006 – 2015 Comprehensive Local Water Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

### **ORDER**

The Board hereby approves the attached 2012 Amendment of the Freeborn County Water Management Plan for 2011 – 2015. Freeborn County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015.

Dated at Marshall, Minnesota, this **23rd day of August 2012**.

### **MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair



**DATE:** May 4, 2012

**TO:** Jeff Nielsen, BWSR Southern Regional Manager

**FROM:** Chris Hughes, BWSR Board Conservationist

**SUBJECT:** Freeborn County Local Water Management Plan Amendment – Final Review

On August 24, 2006, the Board of Water and Soil Resources (BWSR), by board order, approved the Freeborn County 2006–2015 ten-year Comprehensive Local Water Management Plan Update (Plan). The Plan contained an Implementation section with goals, objectives, and action steps covering a five-year period, 2006–2011. The Board stipulated that Freeborn County was required to revise/update this Implementation section by December 31, 2011.

On October 20, 2011, Freeborn County issued a Notice of Decision to Amend five-year Implementation section as directed by BWSR and requested comments for the plan amendment. The County followed the process for amending as described within the Local Water Management Guidance developed by BWSR.

On February 12, 2012 BWSR regional staff received the required documentation and the 2011 Amendment to the Freeborn County Plan. The 2011 Amendment contains an Introduction and a five-year Implementation section (goals, objectives, and actions) for January 2012–December 2015. The Implementation section addresses the following priority issues:

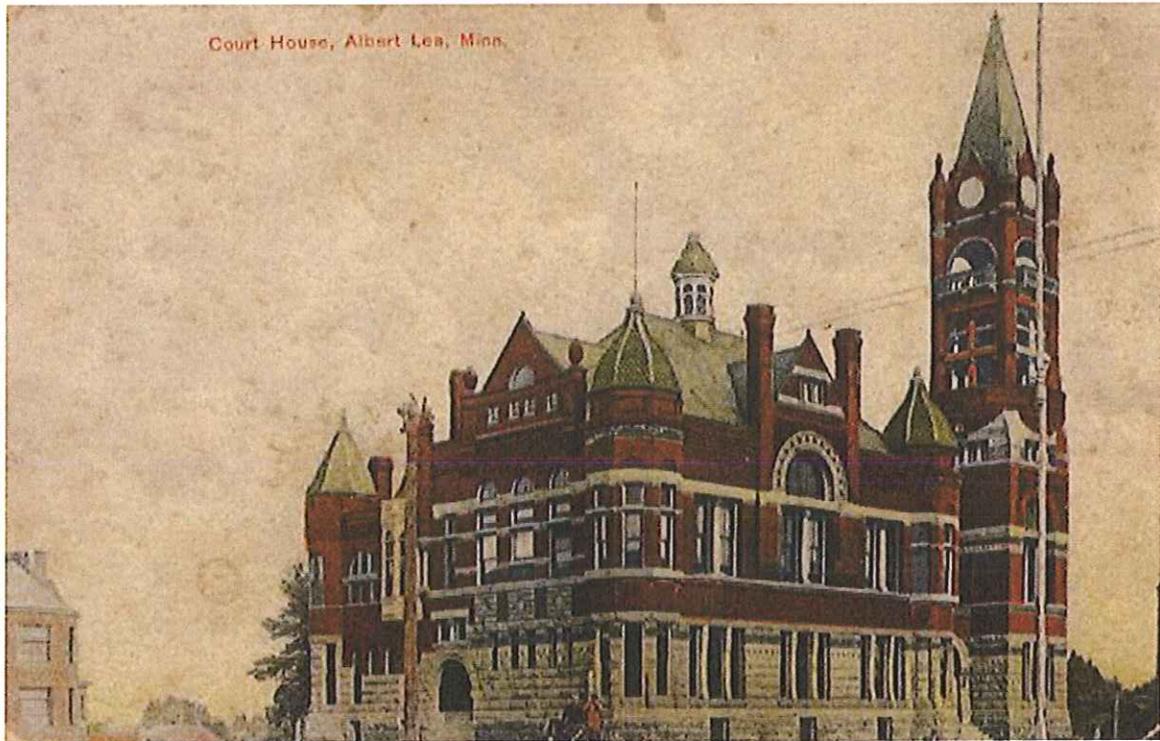
- Minimize flood damage
- Municipal stormwater treatment/discharge
- Individual sewage treatment systems
- Wetland preservation
- Protect water resources from feedlot/animal manure
- Protect and preserve existing shorelands

I have participated and provided guidance/comments/advice/recommendations to Freeborn County throughout this amendment process. I believe the new five-year Implementation section is in conformance with the requirements of Minnesota Statutes 103B and guidance developed by BWSR. I recommend approval of the Freeborn County January 2012–December 2015 Implementation Program Amendment. Finally – I look forward to assisting the County and SWCD in the implementation of this revision of their Plan. The Freeborn County water planning staff, the SWCD and task force should be commended for their efforts and leadership throughout the plan amendment process.

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Marshall</i>	<i>Mankato</i>	<i>New Ulm</i>	<i>Rochester</i>
4 West Building 403 Fourth St. NW, Suite 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

*Central Office / Metro Office* 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

# FREEBORN COUNTY



## 2011 Mid-Term Amendments Comprehensive Water Plan 2006 - 2015

# INTRODUCTION

## Summary

Freeborn County is a gateway into Southern Minnesota. Interstate Freeway 35 W and 90 intersect this area. We are bordered by the State of Iowa to the South, Faribault County to the West, Waseca County and Steele County to the North, and Mower County to the East. This County has a land area of 720 square miles, a 2010 population of 31,255, 14 incorporated cities, and 20 townships. The County Seat is the City of Albert Lea, which is located approximately 100 miles South of Minneapolis, MN. Some 81% of productive land in this County is farmed or used for rotational animal pastures.

## Purpose

The purpose of this updated Local Water Management Plan for Freeborn County is:

- 1) To focus efforts on identified existing and potential priority concerns and/or opportunities for protection, management, and development of related water resources and land resources.
- 2) To continue to develop, update and implement this water plan of action to promote sound management of our resources through the use of Best Management Practices.
- 3) To intensify land use practices aimed at effective environmental protection.
- 4) To provide a guidance document for local decision makers.
- 5) To regulate land use practices for the development, management and protection of water and related land resources.

Freeborn County Comprehensive Water Plan 2006 – 2015 establishes priorities in actions related to water quality, water quantity, special land uses and conditions that influence land and water resources.

## 2011 Amendment

The 2011 Amendment to this Water Plan represents updates to the Goals and Objectives Sections of this plan at the mid-term of the 10 year plan. We have identified Storm Water Management as an additional priority item, due to significant flood events that have occurred.

## Priority Concerns

This water plan process produced 13 priority concerns to focus water management efforts through December 31, 2015. The process through which these priority concerns were identified is detailed in Appendix A "Public Participation in the Freeborn County Water Planning Process" document.

### **Goals and Actions**

The following is a summary of the Goals and Actions identified for 2006 – 2015 Priority Concerns:

- 1) Water Wells – protect aquifer from contamination by water wells.
- 2) Sewer Systems – protect surface water and groundwater from individual sewage treatment systems (ISTS) contamination.
- 3) Top Soil – protect and preserve topsoil.
- 4) Wetlands – preserve existing wetlands.
- 5) Feedlots – protect land and water resources from animal waste contamination.
- 6) Municipal Waste Water – protect water resources from municipal waste water contamination.
- 7) Mixed Solid Waste – protect land and water resources from mixed solid waste contamination.
- 8) Hazardous Waste – protect water resources from hazardous waste contamination.
- 9) Storm Water – Work to bring Freeborn County Lakes, ditches, rivers into compliance with TMDL requirements.
- 10) Watersheds – Manage land resource to reduce contamination into surface waters.
- 11) Flooding – control surface water run-off.
- 12) Shoreland – protect and preserve existing shorelands.
- 13) Public Waters – provide recreational opportunities.

### **Goals and Actions - 2011**

- 1) Protect groundwater from depletion and degradation.
- 2) Enhance protection of surface and groundwater resources from sewage treatment systems.
- 3) Address impaired surface waters.
- 4) Management of animal manure for land applications.
- 5) Control soil erosion.
- 6) Storm water management.
- 7) Protect shoreland areas.

## **Plan Consistency**

Freeborn County examined State Agency, other county, Turtle Creek Watershed District and Shell Rock River Watershed District to ensure consistency with their water resource management efforts.

This 2006 – 2015 Water Plan reflects Minnesota Pollution Control Agencies Lower Mississippi River Basin water quality efforts.

These 2011 amendments reflect additional five year water planning efforts in this ten year plan.

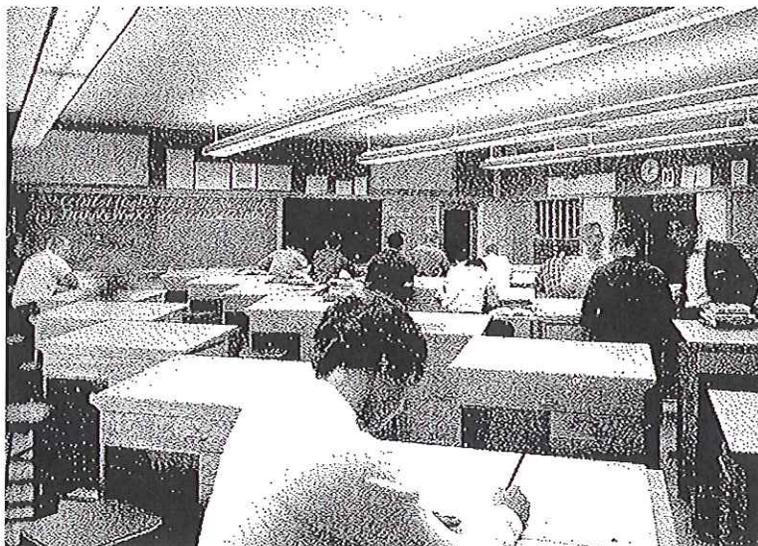
This plan incorporates some of Minnesota Department of Natural Resources Lake Management strategies. It contains targeted Best Management Practices from the Blue Earth River Basin total maximum daily load strategies. This Comprehensive Local Water Plan will incorporate Board of Water and Soil Resources study of flooding in Mower County, Steele County, and Freeborn County.

## **Recommended Amendments**

Pursuant to the authority conferred by the State of Minnesota; Freeborn County adopts this 2006 – 2015 Water Plan and includes all provisions of the 1995 – 2005 Water Plan, to promote and protect the public health, safety and general welfare of all inhabitants.

Freeborn County does not see the need for any amendment to other plans and official controls.

Freeborn County adopts the 2011 amendments.





BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Houston County CLWM Plan Five-Year Update Extension

Meeting Date: August 23, 2012
Agenda Category: [X] Committee Recommendation [ ] New Business [ ] Old Business
Item Type: [X] Decision [ ] Discussion [ ] Information
Section/Region: Southern Region
Contact: Jeff Nielsen
Prepared by: Mary Kells
Reviewed by: Southern Water Planning Committee(s)
Presented by: Paul Langseth

[ ] Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: [ ] Resolution [X] Order [ ] Map [X] Other Supporting Information

Fiscal/Policy Impact

- [X] None [ ] General Fund Budget
[ ] Amended Policy Requested [ ] Capital Budget
[ ] New Policy Requested [ ] Outdoor Heritage Fund Budget
[ ] Clean Water Fund Budget
[ ] Other:

ACTION REQUESTED

Approval to extend the required five-year update of the implementation section of the Houston County Comprehensive Local Water Management Plan until December 31, 2014.

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)
Houston County has submitted a request for an extension of the required five-year update of the implementation section of the Houston County Comprehensive Local Water Management Plan (Plan). The existing deadline for the update of the Plan implementation section is December 31, 2012. This extension is needed due to the retirement of the District Manager of the Root River Soil and Water Conservation District, delegated administrator of the Plan. The request for an extension is deemed acceptable. In conformance with Board policy, BWSR staff recommends a two-year extension, which would make the Implementation Plan update deadline December 31, 2014. The Southern Water Planning Committee will meet on August 21, 2012 and will make its recommendation to the full BWSR Board.

Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
St. Paul, Minnesota 55155

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In the Matter of Extending the Comprehensive Local Water Management  
Plan for Houston County

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ORDER  
EXTENDING  
WATER MANAGEMENT  
PLAN

**Whereas**, the Houston County Board of Commissioners has a state-approved Comprehensive Local Water Management Plan (Plan) that is effective until December 31, 2017 pursuant to Minnesota Statutes 103B.301; and

**Whereas**, the Board Order, dated December 19, 2007, required Houston County to update the implementation section (Goals, Objectives and Actions) of the Plan by December 31, 2012.

**Now Therefore**, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

**FINDINGS OF FACT**

On December 19, 2007, the Board approved the Houston County Comprehensive Local Water Management Plan, and Houston County adopted this Plan via resolution on January 8, 2008. The approved Plan is effective for a ten-year period until December 31, 2017, with a required update to the implementation section (Goals, Objectives and Actions) by December 31, 2012.

On March 21, 2012, Houston County approved and submitted a resolution requesting an extension of their required update to the implementation section of their Plan. This extension is requested due to the retirement of the District Manager of the Root River Soil and Water Conservation District, delegated administrator for the water plan.

On July 6, 2012, Board staff reviewed and recommended approval of the extension request by Houston County.

On August 21, 2012, the Southern Region Water Planning Committee met in Marshall, Minnesota to discuss Houston County's request for extension. The Committee's decision was to present to the Board a recommendation of approval to extend Houston County's update to the implementation section of the Comprehensive Local Water Management Plan until December 31, 2014.

## **CONCLUSIONS**

All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of extending the update to the implementation section of the Comprehensive Local Water Management Plan of Houston County.

## **ORDER**

The Board hereby approves the extension of the required five-year update of the implementation section of the Houston County Comprehensive Local Water Management Plan until December 31, 2014. Houston County shall strive to complete the updating of their Comprehensive Local Water Management Plan in a timely manner.

Dated at Marshall, Minnesota, this 23rd day of August 2012.

## **MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair

July 6, 2012

TO: Jeff Nielsen, BWSR Southern Region Supervisor

FR: Mary Kells, BWSR Board Conservationist

RE: Extension Request – Houston County Comprehensive Local Water Management Plan

Houston County (County) has a Comprehensive Local Water Management Plan (Plan) that was approved by the Minnesota Board of Water and Soil Resources (Board) on December 19, 2007, and locally adopted by the County via a resolution dated January 8, 2008. The effective date (end date) of this Plan is December 31, 2017 with a required update to the implementation section (Goals, Objectives and Actions) by December 31, 2012.

On March 21, 2012, the Board received a written request from the Root River SWCD, delegated administrator for the water plan, and a County Board of Commissioners' Resolution from Houston County requesting a two-year extension to allow time to complete their implementation update. This extension is desired given the retirement of the district manager, the PRAP work that has been completed in Houston County and the transition period that has included contracting an outside consultant to assess workload needs and staffing.

I recommend approval of a two-year extension for the completion of the required update to the implementation section of the Houston County Plan. The County anticipates the update to the implementation section will be completed well before this. The expiration date of the approved 10-Year Plan remains in effect and a full Plan Update will be required prior to December 31, 2017.

MAR 23 2012

**RESOLUTION NO. 12-17**

WHEREAS, on January 8, 2008 the Houston County Board of Commissioners approved Resolution No. 08-7 thereby adopting the Houston County Comprehensive Local Water Management Plan; and

WHEREAS, the five year update to this plan is due on December 31, 2012; and

WHEREAS, on March 1, 2012 the Water Plan Committee approved requesting a two year extension of the plan; and

WHEREAS, on March 9, 2012 the SWCD Board of Directors also approved requesting a two year extension of said plan; and

NOW, THEREFORE BE IT RESOLVED, the Houston County Board Commissioners hereby requests that the Board of Water and Soil Resources (BWSR) approve a two year extension to the Houston County Comprehensive Local Water Management Plan to allow time to complete the five year update.

\*\*\*\*\*CERTIFICATION\*\*\*\*\*

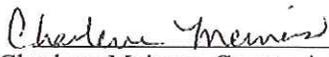
STATE OF MINNESOTA

COUNTY OF HOUSTON

I, Charlene Meiners do hereby certify that the above is a true and correct copy of a resolution adopted by the Houston County Board of Commissioners at a special session dated March 20, 2012.

WITNESS my hand and the seal of my office this 20th day of March, 2012.

(SEAL)

  
\_\_\_\_\_  
Charlene Meiners, County Auditor



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE:

Murray County Local Water Management Plan Amendment

Meeting Date:

Agenda Category: [X] Committee Recommendation [ ] New Business [ ] Old Business
Item Type: [X] Decision [ ] Discussion [ ] Information
Section/Region: Southern Region
Contact: Jeff Nielsen, Regional Supervisor
Prepared by: Mark Hiles, Board Conservationist
Reviewed by: Southern Water Planning Committee(s)
Presented by: Paul Langseth

[ ] Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: [ ] Resolution [X] Order [ ] Map [X] Other Supporting Information

Fiscal/Policy Impact

[X] None [ ] General Fund Budget
[ ] Amended Policy Requested [ ] Capital Budget
[ ] New Policy Requested [ ] Outdoor Heritage Fund Budget
[ ] Clean Water Fund Budget
[ ] Other:

ACTION REQUESTED

Decision

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)
By Board Order, the Board of Water and Soil Resources (Board) approved the Murray County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on June 27, 2007. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Murray County to update the Plan's implementation section by July 1, 2012.

On November 22, 2011, the Murray County Board of Commissioners resolved to amend its five-year implementation section as directed by BWSR. The County followed the process for amending as described within the Comprehensive Local Water Management guidance document developed by BWSR.

On June 7, 2012, the BWSR regional staff received the required documentation and 2012 Amendment to the Murray County Comprehensive Local Water Plan. The 2012 Amendment contains an Executive Summary and the new July 2012- July 2017 implementation section. The implementation section addresses the following priority concerns:

- Improve Surface Water Quality
• Protect Ground Water
• Stormwater Retention

BWSR has actively participated with and provided guidance and recommendations to Murray County and the task force throughout this amendment process. The new five-year implementation section is in conformance with the requirements of Minnesota Statute 103B and guidance developed by BWSR. The Board's Southern Water Planning Committee (Committee) will meet on August 21, 2012 to review the Murray County Plan Addendum. The Committee's recommendation of the Murray County July 2012 - July 2017 Implementation Program Addendum will be presented to the full Board for review and action.

Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
St. Paul, Minnesota 55155

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In the Matter of Reviewing the Local Water Management Plan Amendment  
for **Murray County** (Minnesota Statutes, Section 103B.314,  
Subdivision 6)

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ORDER  
APPROVING  
LOCAL WATER  
MANAGEMENT PLAN  
AMENDMENT

**Whereas**, on June 27, 2007, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Murray County 2007 – 2017 Comprehensive Local Water Plan Update (Plan), which contained a 2007 – 2012 five-year Implementation section; and

**Whereas**, this Board Order stipulated that Murray County was required to update the implementation section by July 1, 2012; and

**Whereas**, the Murray County Board of Commissioners submitted the Murray County Plan 2012 Amendment to the Board on June 7, 2012; and

**Whereas**, this 2012 Amendment contains the updated five-year implementation section as ordered by the Board; and

**Whereas**, the Board has completed its review of the 2012 Amendment.

**Now Therefore**, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

**FINDINGS OF FACT**

1. On November 22, 2011, Murray County passed and submitted a resolution stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.
2. On February 3, 2012, Board staff provided information on the amendment process to Murray County.
3. On January 5, 2012, Murray County provided proper notice to local units of government and state agencies of the County's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.
4. On February 8, 2012, March 7, 2012, and April 4, 2012, Murray County convened its water plan task force to develop the five-year implementation section update.
5. Murray County received written comments from the Minnesota Department of Agriculture, the Minnesota Pollution Control Agency and the Minnesota Board of Water and Soil Resources. The Minnesota Board of Water and Soil Resources attended the water plan task force meetings and provided comments.
6. No other state agency or local government unit provided written comments to Murray County.

7. The final document developed by Murray County, which includes the revised five-year implementation section July 2012 – July 2017 is entitled the Murray County Local Water Management Plan 2007-2017 Amendment July 2012.
8. On May 1, 2012, after providing for proper public notice, Murray County conducted a public hearing on the proposed 2012 Amendment. Additional public comments were submitted at the hearing.
9. On June 7, 2012, the BWSR received the Murray County 2012 Amendment, a record of the public hearing, and copies of all written comments pertaining to the 2012 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.
10. On August 21, 2012, the Board's Southern Water Planning Committee (Committee) reviewed the Murray County 2012 Amendment, pursuant to 103B.301 and guidelines established by the Board.
11. Board regional staff provided its recommendation of approval to the Committee.
12. The Committee voted to recommend approval to the full Board at its next scheduled meeting.
13. This 2012 Amendment will be in effect until **July 1, 2017**.

### **CONCLUSIONS**

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Amendment of Murray County pursuant to Minnesota Statutes, 103B.314, Subd. 6.
2. The Murray County 2012 Amendment attached to this Order states goals, objectives, and actions the County will address in the five-year implementation section July 2012 – July 2017. The 2012 Amendment, as well as the previously approved Murray County 2007 – 2017 Comprehensive Local Water Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

### **ORDER**

The Board hereby approves the attached 2012 Amendment of the Murray County Water Management Plan for July 2012 – July 2017. Murray County will be required to provide for a complete update of its Water Management Plan prior to July 1, 2017.

Dated at Marshall, Minnesota, this **23rd day of August 2012**.

### **MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair



**DATE:** July 26, 2012

**TO:** Jeff Nielsen, BWSR Southern Regional Supervisor

**FROM:** Mark L. Hiles, BWSR Board Conservationist

**SUBJECT:** Murray County Local Water Management Plan Amendment – Final Review

On June 27, 2007, the Board of Water and Soil Resources (BWSR), by board order, approved the Murray County June 27, 2007 – July 1, 2017 ten-year Comprehensive Local Water Plan Update. The Plan contained an implementation section with goals, objectives, and action steps covering a five-year period of 2007 - 2012. The Board Order stipulated that Murray County was required to revise / update this implementation section by July 1, 2012.

On November 22, 2011, the Murray County Board of Commissioners resolved to amend its five-year implementation section as directed by BWSR. The County followed the process for amending as described within the Comprehensive Local Water Management guidance document developed by BWSR.

On June 7, 2012, the BWSR regional staff received the required documentation and 2012 Amendment to the Murray County Comprehensive Local Water Plan. The 2012 Amendment contains an Executive Summary and the new July 2012- July 2017 implementation section. The implementation section addresses the following priority concerns:

- Improve Surface Water Quality
- Protect Ground Water
- Stormwater Retention

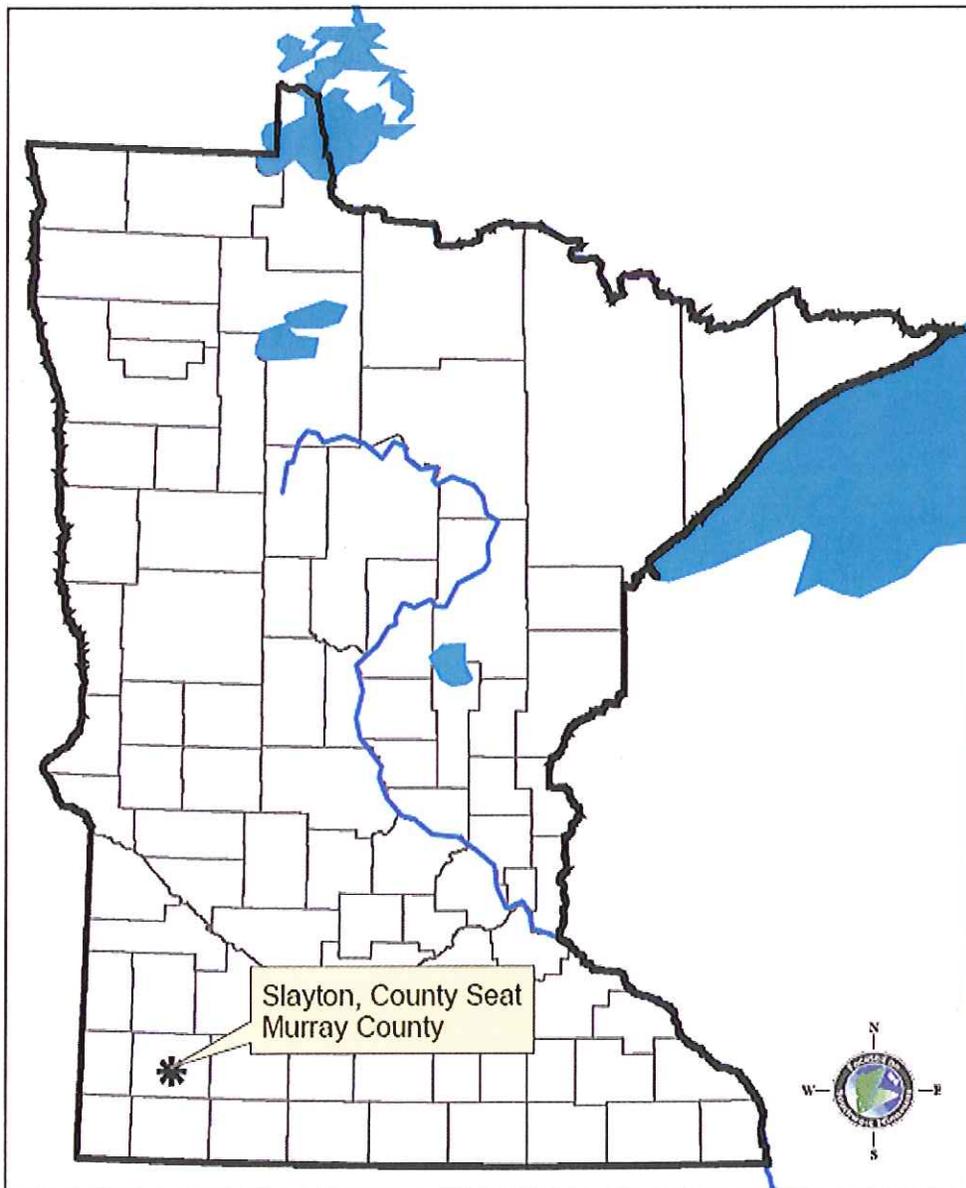
I have actively participated with and provided guidance and recommendations to Murray County and the task force throughout this amendment process. I believe the new five-year implementation section is in conformance with the requirements of Minnesota Statute 103B and guidance developed by BWSR. I recommend approval of the Murray County July 2012 - July 2017 Implementation Program Amendment. Finally - I look forward to assisting Murray County in the implementation of this revision of their Local Water Management Plan. Water Plan Coordinator Chris Hansen should be commended for his leadership throughout the plan amendment process.

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Marshall</i>	<i>New Ulm</i>	<i>Rochester</i>	<i>Saint Paul</i>
3217 Bemidji Avenue N. Bemidji, MN 56601 phone (218) 755-4235 fax (218) 755-4201	217 S. 7th Street Suite 202 Brainerd, MN 56401 phone (218) 828-2383 fax (218) 828-6036	394 S. Lake Avenue Room 403 Duluth, MN 55802 phone (218) 723-4752 fax (218) 723-4794	1004 Frontier Drive Fergus Falls, MN 56537 phone (218) 736-5445 fax (218) 736-7215	1400 E. Lyon Street Box 267 Marshall, MN 56258 phone (507) 537-6060 fax (507) 537-6368	261 Highway 15 S. New Ulm, MN 56073 phone (507) 359-6074 fax (507) 359-6018	2300 Silver Creek Road N.E. Rochester, MN 55906 phone (507) 280-2874 fax (507) 285-7144	520 Lafayette Road N. Saint Paul, MN 55155 phone (651) 296-3767 fax (651) 297-5615

# MURRAY COUNTY LOCAL WATER MANAGEMENT PLAN 2007-2017

*A 10-year plan with a 5-year implementation schedule.*  
**July 2012 Amendment**

Prepared for the Murray County Local Water Management Plan Task Force  
By Murray County Environmental Services and  
Southwest Regional Development Commission



For additional information on water management in Murray County, Minnesota, contact:  
Murray County Environmental Services Office  
2500 – 28<sup>th</sup> St, PO Box 57  
Slayton, MN 56172  
(507) 836-1165

## A. Executive Summary

Murray County is located in southwestern Minnesota, adjacent to Cottonwood, Redwood, Lyon, Pipestone, Rock, and Nobles counties. The City of Slayton is the county seat. Murray County's population in the 2010 census was 8,725 and the City of Slayton's population was 2,153.

Murray County is typical prairie environment, with variation in land elevation from 1900 feet above sea level atop the Coteau de Prairies (Buffalo Ridge) to 1250 feet in the northeast corner of the county, with nine generalized soil areas. Murray County contains the headwaters of four major watersheds, including the Cottonwood and Redwood rivers which drain into the Minnesota River, the Rock River which drains into the Missouri River basin, and the Des Moines River which eventually drains into the Mississippi River (**see Map A attached**).

### A.1 Purpose & Introduction

**The Murray County Water Plan is intended to identify existing and potential water issues in the context of watershed units and groundwater systems, informing specific implementation actions to achieve goals for sound hydrological management of water and related resources.**

Requirements of a local water plan are set forth in current state statute (M.S. 103B.311, Subd. 4.). The plan must address management of water, effective environmental protection, and efficient resource management, and must be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or ground water systems. This Water Plan is a ten-year management plan with a five-year implementation schedule.

This is the amended third edition of a local water management plan for Murray County. On October 10, 1987, the Murray County Board of Commissioners adopted a resolution to develop a Comprehensive Local Water Plan according to Minnesota Statutes in effect at that time. This plan, developed as a multi-county project under the direction of the Redwood-Cottonwood Rivers Control Area, was adopted by the Murray County Board of Commissioners on September 4, 1990. On December 17, 1995, the Murray County Board of Commissioners adopted a resolution to update and revise the Comprehensive Local Water Plan. The Murray County Board of Commissioners adopted a resolution on September 6, 2005 to revise the current plan, adopted on April 1, 1997, according to Minnesota Statutes now in effect. Lastly, the Murray County Board adopted a resolution on November 22, 2011 to update the plan that was adopted in 2007.

Here is a summary of the major yearly accomplishments of the Water Management Plan since it was updated in 2007:

- Funded the Ecology Bus to attend each of the two high schools in the County as well as the County Fair.
- Funded the 4-H Day Camp where children learn about wetlands and wildlife.
- Sponsored the Southwest Minnesota Environmental Fair.

- Tested well water throughout the County to maintain a database that was started in 1991.
- Tested pit tiles in hog confinement buildings to make sure they are not contaminating the groundwater.

Here is a summary of the other major accomplishments of the Water Management Plan since it was updated in 2007:

- Sealed 121 unused wells throughout the County.
- Provided \$18,972.08 in funds for engineering of water retention structures within the Beaver Creek watershed.
- Received \$83,064 in a CWF grant for the Jackson/Cottonwood/Murray West Fork Des Moines River BMP Project; this project was for four sediment reduction projects.
- Received \$90,000 in a CWF grant for the Lime Creek SSTS Fix-up project; this is for the septic system upgrades to 10 hookups in the village of Lime Creek.
- Provided \$4,000 for rip-rap work done along Beaver Creek.
- Provided \$5,154.93 to small cities for upgrading their sewer treatment systems.
- Provided \$600 to the Des Moines River TMDL Project.
- Provided \$2,000 to the Rock River TMDL Project.

Below is a list of other accomplishments the Water Management Plan Board has accomplished in the last five years:

Objective A1: Promote land use practices that protect surface water quality.

- Assisted with the construction of 368 acres of CRP buffer strips, 10 acres of wetland restorations, and 1 sediment control structure in the Beaver Creek watershed.
- Assisted in the update of the Comprehensive Land Use Plan in 2007.
- Gave speeches to Murray County Central School classes 3 times per year on water quality and recycling.
- Provided technical assistance to the Lake Maria restoration project.
- Assisted in the planting of 26.9 acres of farmstead shelterbelts.
- Assisted with the installation of 5 grassed waterways and 3 sediment control structures.
- Assisted with the installation of 3,600 feet of terraces.

Murray County Water Plan Accomplishments						
Ag BMP Loans						
	Feedlots		Septics		Conservation	
		Dollars		Dollars	Tillage	Dollars
2000	2	\$37,228	12	\$58,025	13	\$149,095
2001	4	\$65,314	9	\$45,349	25	\$399,146
2002	0	\$0	5	\$31,514	12	\$157,160
2003	0	\$0	5	\$27,515	13	\$216,856
2004	7	\$187,289	6	\$36,042	23	\$526,707
2005	3	\$125,000	2	\$14,031	16	\$287,553
2006	6	\$193,693	3	\$16,186	19	\$313,750
2007	4	\$140,131	0	\$0	15	\$352,143
2008	3	\$67,683	0	\$0	5	\$155,500
2009	8	\$235,598	0	\$0	6	\$167,269
2010	2	\$62,000	0	\$0	9	\$232,240
2011	7	\$223,778	0	\$0	8	\$138,466
<b>Total</b>	<b>46</b>	<b>\$1,337,714</b>	<b>42</b>	<b>\$228,662</b>	<b>164</b>	<b>\$3,095,885</b>

Source: Murray County Ag/Solid Waste Department

Above is a summary of the Ag BMP loans the Murray County Ag/Solid Waste Department has issued since 2000.

Objective A2: Promote Ag Best Management Practices; complete Level 3 feedlot inventory.

- Conducted yearly meetings with the township officials to discuss Ag BMP's.
- Set up a booth at the County Fair to discuss feedlot registrations.
- Inspected 7% of all registered feedlots per year.
- Conducted yearly pit tile testing on all hog confinement units constructed since 1999.
- Provided technical assistance in distributing EQIP funds to 60 projects, and state cost share to 41 projects.
- Developed a GIS layer of feedlots on DELTA.
- Assisted 25 producers with registered feedlots to get manure management plans.

Objective A3: Address TMDL Impaired Waters.

- Sampled water in the Beaver Creek watershed in 2007 and 2008.
- Provided Technical Assistance with the Des Moines River and Rock River TMDL plans.

Objective A4: Encourage SSTS compliance; Continue septic loan program & seek additional funding.

- Upgraded 193 septic systems since 2007.
- In 2010, Murray County received a \$90,000 CWF grant for the Lime Creek SSTS Fix-up Project. This project encompasses nine homes and one elevator within the

village of Lime Creek. Of these ten systems, eight were suspected to be imminent health threats and one was suspected to be non compliant. In the summer of 2011, a large cluster/mound system was constructed to service all of the residents and the elevator. The entire project cost was \$220,000.

- Updated the County septic regulations in 2008.
- Assisted the City of Hadley with updated their sanitary sewer.
- Provided assistance to the Shetek Area Water and Sewer District in getting sewer access to areas around the lakes without sewer availability.

Objective B1: Encourage Well Head Protection planning.

- Assisted the City of Chandler with their DWSMA plan.
- Conducted yearly free Nitrate Test Clinics at the Murray County Fair.
- Monitored 65 wells each year within the County for nutrient and bacteria levels.
- Work with Red Rock and Lincoln-Pipestone Rural Water.

Objective B3: Continue assistance to seal unused wells.

- Utilized the Water Resources fair booth to promote well sealing.
- Sealed 121 wells since 2007.
- Conducted site visits to 10 farmsites to remove all hazardous waste.

Objective C1: Slow runoff to keep soil, pesticide and fertilizer on the land.

- Developed a GIS layer of all public drainage systems.
- Worked with Area II Representatives to find locations in the Beaver Creek watershed for water retention structures.
- Secured funding for the Steinman Retention Structure. Murray County has taken a proactive approach to slowing down surface water from entering the public waters. This project holds back storm water, allows sediment to settle out of the water, and allows the storm water to recharge the groundwater prior to being released. This project was completed in 2011 and has an estimated pollution reduction of 185.62 tons of sediment per year and 272.1 pounds of phosphorus reduction per year.
- Met with 28 landowners on proper lakeshore and streambank stabilization.

Objective C2: Promote conservation tillage and buffer strips; seek additional funding.

- Sent out a yearly brochure through the SWCD regarding EQIP, conservation tillage, and Ag BMP's.
- Provided incentives to enroll 368 acres of buffer strips in the Beaver Creek watershed.
- Enrolled 90 acres of marginal land into the CREP buffer strip program.

Objective C3: Move from no net loss of wetlands to active wetland restoration.

- Provided yearly technical assistance to the TEP panel by conducting 16 TEP meetings.
- Worked on reestablishing the wetlands in the Beaver Creek watershed (443.5 acres).

- Planted 169 acres of native grass filter strips around wetland basins in the Beaver Creek watershed.

The Murray County Environmental Services Office is responsible for local water management in Murray County, including facilitation of public input and convening the Murray County Local Water Management Plan Task Force. The Murray County Water Resources Department is facilitating the 2012 Update. Task Force membership currently includes:

**2012 Local Water Management Plan Task Force Members**

Paul Posthuma	Agriculture / SWCD
Duane Spartz	Private Business
Jon Hoyme	Shetek Area Water and Sewer Commission (SAWSC)
Larry Byers	Township Representative
Dave Kremer	Private Business
Justin Hoffmann	City of Slayton Representative/Parks Department
Jay Takle	State Park
Darrold Peck	Citizen
Howard Konkol	SWCD
Robert Koehler	Citizen
Amy Hoglin	County EDA
Jon Bloemendaal	Ag & Solid Waste Administrator
Mike Boersma	Extension Educator
Jean Christoffels	Murray County Zoning Administrator / Secretary
John Giese	County Commissioner
Robert Moline	County Commissioner
Bill Sauer	County Commissioner
Kevin Vickerman	County Commissioner
Gerald Magnus	County Commissioner
Chris Hansen	Water Resources Administrator / Water Plan Coordinator

**A.1.b 2012 Public and Internal Forums**

- 11/22/11 Resolution to Update Plan from County Board of Commissioners
- 01/05/12 Notice of Plan Update sent to townships and cities, adjacent counties, SWMN JPO, Heron Lake Watershed, BWSR, MPCA, DNR, EQB, MDH
- 02/08/12 Task Force met regarding update of plan and went over Agency comments
- 03/07/12 Task Force met regarding update of plan and review draft document.
- 04/04/12 Task Force met regarding update of plan and review draft document.
- 04/17/12 Reviewed plan with the Murray County Board of Commissioners.
- 05/01/12 Held a public hearing on the amended Water Plan.

### A.1.c Plan Adoption and Amendment

Upon approval of this plan by the Minnesota Board of Water and Soil Resources (BWSR), Murray County has up to 120 days to pass an Adoption and Implementation Resolution. After final adoption, the plan may be amended in a similar process, by petitioning the BWSR Board, scheduling a public hearing, and sending notice to the required parties.

### A.2 TMDL Impaired Waters

The federal Clean Water Act requires states to adopt water quality standards. A water body is considered “impaired” or polluted if it fails to meet these standards. The Act requires the state to conduct a Total Maximum Daily Load (TMDL) study to identify point and non-point sources of each of these pollutants. MPCA and other agencies are working to reduce impairments in these waters. Statewide in 2006, there were 2,274 impairments listed on 1,304 waters. Please see the table below for the updated list of 2012 impaired waters within Murray County. Priorities will be placed on the Rock River and Des Moines River Watersheds for sampling over the next 5 years.

#### Clean Water Act Section 202 [d] List (Draft 2012) of Impaired Waters in the County

Streams				
Assessment Unit	ID	Impaired Use	Impairment Cause	Impairment Status
Beaver Creek: CD 20 to Des Moines R	07100001-503	AqRec	Fecal Colicorm	TMDL Approved
Beaver Creek: CD 20 to Des Moines R	07100001-503	AqLife	Turbidity	TMDL Approved
County Ditch 20: Headwaters to Beaver Creek	07100001-504	AqRec	Fecal Colicorm	TMDL Approved
Des Moines River: Beaver Creek to Lime Creek	07100001-546	AqRec	Fecal Colicorm	TMDL Approved
Des Moines River: Beaver Creek to Lime Creek	07100001-546	AqLife	Turbidity	TMDL Approved
Des Moines River: Lime Creek to Heron Lake Outlet	07100001-533	AqRec	Fecal Colicorm	TMDL Approved
Des Moines River: Lime Creek to Heron Lake Outlet	07100001-533	AqLife	Turbidity	TMDL Approved
Des Moines River: Lake Shetek to Beaver Creek	07100001-545	AqLife	Turbidity	TMDL Approved
Dutch Charlie Creek: Headwaters to Highwater Creek	07020008-518	AqLife	Fishes Bioassessments	TMDL Required
Dutch Charlie Creek: Headwaters to Highwater Creek	07020008-518	AqLife	Turbidity	TMDL Required
Jack Creek, North Branch: Headwaters to Jack Creek	07100001-505	AqLife	Turbidity	TMDL Approved
Lake Shetek Inlet: Headwaters to Lake Shetek	07100001-502	AqRec	Fecal Colicorm	TMDL Approved
Lime Creek: Lime Lake to Des Moines River	07100001-535	AqRec	Fecal Colicorm	TMDL Approved
Lime Creek: Lime Lake to Des Moines River	07100001-535	AqLife	Turbidity	TMDL Approved
Lower Lake Sarah Outlet: First Unnamed Creek on Lake Sarah Outlet Stream to Lake Shetek Inlet	07100001-508	AqRec	Fecal Colicorm	TMDL Approved
Pell Creek: Headwaters to T109 R38W S29, east line	07020008-535	AqLife	Turbidity	USEPA Review
Plum Creek (Judicial Ditch 20A): Headwaters to Cottonwood River	07020008-516	AqRec	Fecal Colicorm	TMDL Required
Plum Creek (Judicial Ditch 20A): Headwaters to Cottonwood River	07020008-516	AqLife	Turbidity	TMDL Required
Redwood River: Headwaters to Coon Creek	07020006-505	AqLife	Fishes Bioassessments	TMDL Required
Redwood River: Headwaters to Coon Creek	07020006-505	AqRec	Fecal Colicorm	TMDL Required
Redwood River: Headwaters to Coon Creek	07020006-505	AqCons	Mercury in Fish Tissue	TMDL Approved
Unnamed Creek: Unnamed Creek to Lake Shetek	07100001-519	AqRec	Fecal Colicorm	TMDL Approved
Unnamed Creek: Unnamed Creek to Unnamed Creek	07100001-517	AqRec	Fecal Colicorm	TMDL Approved
Upper Lake Sarah Outlet: Lake Sarah to Unnamed Creek	07100001-513	AqRec	Fecal Colicorm	TMDL Approved

**Clean Water Act Section 202 [d] List (Draft 2012) of Impaired Waters in the County, continued**

**Lakes**

Assessment Unit	ID	Impaired Use	Impairment Cause	Impairment Status
Bloody	51-0040-00	AqRec	Nutrient/Eutrophication Biological Indicators	TMDL Required
Currant	51-0082-00	AqRec	Nutrient/Eutrophication Biological Indicators	TMDL Required
First Fulda	51-0021-00	AqRec	Nutrient/Eutrophication Biological Indicators	TMDL Required
Lime	51-0024-00	AqRec	Nutrient/Eutrophication Biological Indicators	TMDL Required
Sareh	51-0063-00	AqRec	Nutrient/Eutrophication Biological Indicators	TMDL Required
Shetek	51-0046-00	AqRec	Nutrient/Eutrophication Biological Indicators	TMDL Required
Talcot	17-0060-00	AqRec	Nutrient/Eutrophication Biological Indicators	Proposed Impairment Under USEPA Review

**Wetlands**

Assessment Unit	ID	Impaired Use	Impairment Cause	Impairment Status
Unnamed	51-0124-00	AqLife	Aquatic Macroinvertebrate Bioassessments	Proposed Impairment Under USEPA Review
Unnamed	51-0128-00	AqLife	Aquatic Macroinvertebrate Bioassessments	Proposed Impairment Under USEPA Review
Unnamed	51-0128-00	AqLife	Aquatic Plant Bioassessments	Proposed Impairment Under USEPA Review
Unnamed	51-0124-00	AqLife	Aquatic Plant Bioassessments	Proposed Impairment Under USEPA Review



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Wabasha County CLWM Plan Extension

Meeting Date: August 23, 2012  
Agenda Category:  Committee Recommendation  New Business  Old Business  
Item Type:  Decision  Discussion  Information  
Section/Region: Southern Region  
Contact: Jeff Nielsen  
Prepared by: Mary Kells  
Reviewed by: Southern Water Planning Committee(s)  
Presented by: Paul Langseth

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments:  Resolution  Order  Map  Other Supporting Information

Fiscal/Policy Impact

- None
- Amended Policy Requested
- New Policy Requested
- Other: \_\_\_\_\_
- General Fund Budget
- Capital Budget
- Outdoor Heritage Fund Budget
- Clean Water Fund Budget

ACTION REQUESTED

Approval to extend the Wabasha County Comprehensive Local Water Management Plan until December 31, 2014.

**SUMMARY** (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)  
Wabasha County has submitted a request for an extension of the Wabasha County Comprehensive Local Water Management Plan (Plan). The existing Plan will expire on December 31, 2012. This extension is needed due to staff vacancies in the Water Planner and Feedlot Officer positions as well as pending retirement/change of SWCd/NRCS field office staff. BWSR staff and the Wabasha Water Planner have worked together to develop a workable schedule that will allow for the process to be completed in a timely manner. The request for an extension is deemed acceptable. In conformance with Board policy, BWSR staff recommends a two-year extension, which would make the Plan update deadline December 31, 2014. The BWSR Southern Water Planning Committee will meet on August 21, 2012 and will make its recommendation to the full BWSR Board.

Minnesota Board of Water and Soil Resources  
520 Lafayette Road North  
St. Paul, Minnesota 55155

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In the Matter of Extending the Comprehensive Local Water Management  
Plan for Wabasha County

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ORDER  
EXTENDING  
WATER MANAGEMENT  
PLAN

**Whereas**, the Wabasha County Board of Commissioners has a state-approved Comprehensive Local Water Management Plan (Plan) that is effective until December 31, 2012 pursuant to Minnesota Statutes 103B.301; and

**Whereas**, the Minnesota Board of Water and Soil Resources (Board) has authorization to grant extensions pursuant to Minnesota Statutes 103B.311, Subdivision 4 (a) (5).

**Now Therefore**, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

**FINDINGS OF FACT**

On December 19, 2007, the Board approved the Wabasha County Comprehensive Local Water Management Plan. The approved Plan is effective for a five-year period until December 31, 2012.

On June 28, 2012, Wabasha County approved and submitted a resolution requesting an extension of their Plan. This extension is needed due to the vacancy of the Water Planner position due to a promotion of the Water Planner into the District Manager position, which is covering duties of both position due to budgetary cuts; county transitions; and large workload.

On July 6, 2012, Board staff reviewed and recommended approval of the extension request by Wabasha County. Board policy provides for one two-year extension for local water management plan deadlines. In conformance with Board policy, Board staff recommended a two-year extension for the Wabasha Plan.

On August 21, 2012, the Southern Region Water Planning Committee met in Marshall, Minnesota to discuss Wabasha County's request for extension. The Committee's decision was to present to the Board a recommendation of approval to extend Wabasha County's Comprehensive Local Water Management Plan until December 31, 2014.

## **CONCLUSIONS**

All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of extending the Comprehensive Local Water Management Plan of Wabasha County pursuant to Minnesota Statutes 103B.311, Subdivision 4 (a) (5).

## **ORDER**

The Board hereby approves the extension of the Wabasha County Comprehensive Local Water Management Plan until December 31, 2014. Wabasha County shall strive to complete the updating of their Comprehensive Local Water Management Plan in a timely manner.

Dated at Marshall, Minnesota, this 23rd day of August 2012.

## **MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair

July 6, 2012

TO: Jeff Nielsen, BWSR Southern Region Supervisor

FR: Mary Kells, BWSR Board Conservationist

RE: Extension Request – Wabasha County Comprehensive Local Water Management Plan

Wabasha County (County) has a Comprehensive Local Water Management Plan (Plan) that was approved by the Minnesota Board of Water and Soil Resources (Board) on December 19, 2007, and locally adopted by the County via a resolution dated January 24, 2008. The effective date (end date) of this Plan is December 31, 2012.

On June 28, 2012, the Board received a written request from the Wabasha SWCD, delegated administrator for the water plan, and a County Board of Commissioners' Resolution from Wabasha County requesting a two-year extension to allow time to complete their Plan Update. This extension is desired given staff vacancies in Water Planner position, County Feedlot Officer position, and pending retirement/change of SWCD/NRCS field office staff.

BWSR policy is to grant a one-time, two-year extension if requested and justified. I recommend approval of a two-year extension for the completion of the required update to the Wabasha County Plan and that the expiration date of the approved 5-Year Plan be December 31, 2014.

WABASHA COUNTY BOARD OF COMMISSIONERS

RESOLUTION 2012-110

To Obtain Extension for SE MN BWSR for the Adoption of the County Water Plan Resolution

WHEREAS, January 8, 2008, Wabasha County Board of Commissioners approved Resolution No. 2008-012 thereby adopting the Wabasha County Comprehensive Local Water Management Plan; and

WHEREAS, the Wabasha update to this plan is due December 31, 2012 and the Wabasha County Commissioners approved Resolution No. 2012-062 on March 27<sup>th</sup>, 2012 to revise and update the current water plan; and

WHEREAS, due to the vacancy in the Water Planner Coordinator position due to a promotion of the Water Planner Coordinator into the District Manager, who is covering both positions due to budgetary cuts; and

WHEREAS, Wabasha Soil and Water Conservation District continues to support Wabasha County Planning and Zoning with the feedlot transition throughout the vacancy; and

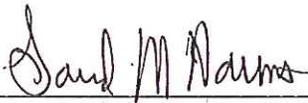
WHEREAS, Wabasha SWCD District Manager/Water Planner Coordinator is conducting stream monitoring two days a week for Whitewater River Watershed Project, and Zumbro Watershed Partnership throughout the 2011-2012 seasons; and

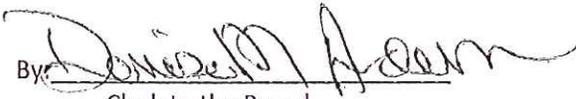
WHEREAS, Wabasha SWCD has been conducting mining and development reviews under ordinance for Wabasha County Planning and Zoning; and

WHEREAS, recent staff transitions of SWCD staff due to pending retirement and NRCS staff due to the vacancy of the District Conservationist;

NOW, THEREFORE BE IT RESOLVED, the Wabasha County Board of Commissioners hereby requests that the Board of Water and Soil Resources (BWSR) approve a two year extension to the Wabasha County Comprehensive Local Water Management Plan to allow time to complete the Water Plan Update and revision.

Adopted this 25<sup>th</sup> day of June 2012 by the Wabasha County Board of Commissioners.

By:   
Board Chair

By:   
Clerk to the Board

**NEW BUSINESS**

1. Establishment of an Audit Committee – John Jaschke – *DECISION ITEM*
2. Preliminary 2012 Flood Response - John Jaschke - *INFORMATION/DECISION ITEM*



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Establishment of an Audit Committee

Meeting Date: August 23, 2012
Agenda Category: [X] Committee Recommendation [X] New Business [ ] Old Business
Item Type: [X] Decision [ ] Discussion [ ] Information
Section/Region:
Contact: Tim Dykstal
Prepared by: Tim Dykstal
Reviewed by: John Jaschke Committee(s)
Presented by: John Jaschke

[ ] Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: [ ] Resolution [ ] Order [ ] Map [ ] Other Supporting Information

Fiscal/Policy Impact

- [X] None [ ] General Fund Budget
[ ] Amended Policy Requested [ ] Capital Budget
[ ] New Policy Requested [ ] Outdoor Heritage Fund Budget
[ ] Clean Water Fund Budget
[ ] Other:

ACTION REQUESTED

BWSR's staff and the Administrative Advisory Committee recommend that the BWSR Board approve the attached Resolution establishing an Audit Committee.

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)
An Audit Committee would appraise the effectiveness of the agency's internal controls and risk assessment, and provide an avenue of communication between BWSR's internal audit function and external auditors, management, and the Board. In addition, the Audit Committee would receive reports on BWSR's fiscal compliance. By defining a reporting relationship outside of the agency's operations, a BWSR Audit Committee would secure the independence of the internal audit function. It would also enhance the agency's accountability, increase its transparency, and align BWSR with the best practices of other executive state agencies.

**Establishment of an Audit Committee**

**WHEREAS**, the Board of Water and Soil Resources is authorized by Minnesota Statutes 103B.101 to “adopt an annual budget and work program that integrate the various functions and responsibilities assigned to it by law”; and to assess “board programs and recommendations for any program changes and board membership changes necessary to improve state and local efforts in water and soil resources management”; and

**WHEREAS**, the purpose of internal auditing is to supply an organization with “an independent, objective assurance and consulting activity” that can assess programs and recommend changes, as well as to appraise the effectiveness of the agency’s internal controls and risk assessment; and

**WHEREAS**, Article II, Section 5 of BWSR’s Bylaws allows the Board to “establish committees” consisting “of three or more members of the Board for the purpose of gathering information, presiding over public hearings, making findings and bringing recommendations to the Board”; and

**WHEREAS**, by defining a reporting relationship outside of the agency’s operations, a BWSR Audit Committee would secure the independence of the internal audit function, and provide an avenue of communication between it and external auditors, management, and the Board; and

**WHEREAS**, in addition, an Audit Committee would receive reports on BWSR’s fiscal compliance; and

**WHEREAS**, an Audit Committee would enhance the agency’s accountability, increase its transparency, and align BWSR with the best practices of other executive state agencies; and

**WHEREAS**, the Administrative Advisory Committee of the Board recommended the establishment of an Audit Committee at its meeting on June 27, 2012;

**NOW THEREFORE BE IT RESOLVED**, the Board of Water and Soil Resources establishes an Audit Committee consisting of the Board’s chair, vice-chair, and three at-large members, as described in the attached addition to BWSR’s list of committees, dated June 27, 2012.

**BE IT FURTHER RESOLVED**, the purpose, authority, composition, and responsibilities of the Audit Committee be as defined in the attached Audit Committee Charter.

\_\_\_\_\_  
Brian Napstad, Chair

\_\_\_\_\_  
Date

Attachments:

- Audit Committee Charter
- Description of Audit Committee to appear in BWSR Committee List



# Audit Committee Charter

## Purpose

The Audit Committee appraises the effectiveness of the agency’s internal controls and risk assessment, and provides an avenue of communication between BWSR’s internal audit function and external auditors, management, and the Board. In addition, the AUD receives reports on BWSR’s fiscal compliance.

## Authority

The Audit Committee shall be established by a Resolution of the Board.

## Composition of Committee

The Audit Committee shall be composed according to Article II, Section 5 of the BWSR Bylaws. The Audit Committee consists of the Board’s chair, vice-chair, and three at-large members.

## Meetings

The Audit Committee will meet at least once during the year or at the call of the chair. A majority of the members can also call a meeting.

## Responsibilities

### A. Internal Audit and Fiscal Compliance

The Audit Committee shall:

- Review with management and the Fiscal Compliance Director the charter, activities, staffing, and organizational structure of the internal audit function.
- Ensure that the internal audit function is organizationally independent from BWSR operations.
- Review and approve the annual internal audit plan.
- Review the results of internal audits and program evaluations and approve the accepted recommendations of the auditor.
- Receive reports from the Fiscal Compliance Director on BWSR’s fiscal compliance.

### B. External Audit

The Audit Committee shall:

- Review and discuss any significant risks reported in external audit findings and recommendations and assess the responsiveness and timeliness of management’s follow-up activities pertaining to the same.

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Marshall</i>	<i>Mankato</i>	<i>New Ulm</i>	<i>Rochester</i>
4 West Building 403 Fourth St. NW, Suite 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

- Meet with external auditors to discuss any significant issues that may have surfaced during the course of the audit.

### **C. Internal Controls and Risk Assessment**

The Audit Committee shall:

- Review management's assessment of the effectiveness of BWSR's internal controls, and review the annual control environment self-assessment and certification.

### **D. Special Investigations**

The Audit Committee shall:

- Ensure that BWSR has an appropriate confidential mechanism for individuals to report suspected instances of fraud, corruption, criminal activity, conflicts of interest, or breaches of internal control among BWSR or its affiliates.

### **E. Other Responsibilities of the Audit Committee**

The Audit Committee shall:

- Present annually to the Board a written report of how it has discharged its duties and met its responsibilities as outlined in the charter.
- Review the committee's charter annually, reassess its adequacy, and recommend any proposed changes to the Board. The Audit Committee Charter will be updated as applicable laws, regulations, accounting, and auditing standards change.
- Obtain any information and training needed to enhance the committee members' understanding of the role of internal and external audits, risk assessment, and internal controls.

**BOARD OF WATER AND SOIL RESOURCES  
COMMITTEES  
April 20, 2012 June 27, 2012**

**ADMINISTRATIVE ADVISORY COMMITTEE (ACC)**

<b>Membership:</b>	Brian Napstad, chair	county commissioner
	Gerald Van Amburg, vice-chair	citizen
	Paul Langseth	soil & water conservation district
	Gene Tiedemann	watershed district/WMO
	Keith Mykleseth	non-metro city
	John Jaschke	staff
	Mary Jo Anderson	staff

**Responsibility:**

*The ACC consists of the Board's chair and vice-chair and the chairs of the Board's standing committees. The AAC will make evaluations and recommendations to the Board on various Board issues including ethics; expenses/per diem; bylaws; and legislation and budgets. The AAC will act as the personnel committee for personnel actions relating to the Board's executive director. The chairman may include additional members ad hoc to address special or unique topics or issues.*

**Meetings:** *The committee will meet at the call of the chair.*

**AUDIT COMMITTEE (AUD)**

<b>Membership:</b>	Brian Napstad, chair	county commissioner
	Gerald Van Amburg, vice-chair	citizen
	Board member	at-large
	Board member	at-large
	Board member	at-large
	Tim Dykstal	staff

**Responsibility:**

*The AUD consists of the Board's chair, vice-chair, and three at-large members. It appraises the effectiveness of the agency's internal controls and risk assessment, and provides an avenue of communication between BWSR's internal audit function and external auditors, management, and the Board. In addition, the AUD receives reports on BWSR's fiscal compliance.*

**Meetings:**

*The Audit Committee will meet at least once during the year or at the call of the chair. A majority of the members can also call a meeting.*

**DISPUTE RESOLUTION COMMITTEE (DRC)**

<b>Membership:</b>	Gerald Van Amburg, chair	citizen
	Joe Collins	watershed district/WMO
	Quentin Fairbanks	county commissioner
	Steve Sunderland	soil & water conservation district
	Jack Ditmore	citizen
	Travis Germundson	staff lead

**Responsibility:** *The DRC is responsible for appeals relating to the Wetland Conservation Act decisions of local governments, watershed district rule and permit decision appeals, and, under MS103A.301, determinations of water law and policy. The authority of the DRC is established in statute and assigned to the DRC by the Board. Under current guidelines the DRC receives the appeals; hears the issues; and makes recommendations to the Board.*

*Per M.S. 103B.101, Subd.10, the committee consists of two of the three citizen members; one county commissioner member; one soil and water conservation district supervisor member; and one watershed district or watershed management organization representative member. The committee is appointed by the board chair.*

**Meetings:** *The Committee will meet as needed to process appeals that have been filed with the Board.*

**GRANTS PROGRAM AND POLICY COMMITTEE (GP&PC)**

<b>Membership:</b>	Paul Langseth, chair	soil & water conservation district
	Bob Burandt	soil & water conservation district
	Steve Sunderland	soil & water conservation district
	John Meyer	citizen
	Todd Foster	watershed district/WMO
	Gene Tiedemann	watershed district/WMO
	Christy Jo Fogarty	metro cities
	Keith Mykleseth	non-metro cities
	Rebecca Flood	Pollution Control Agency
	Faye Sleeper	University of Minnesota Extension
	Wayne Zellmer	staff lead
	Dave Weirens	SMT staff

**Responsibility:** *The GP&PC is responsible for reviewing cost-share, non-point engineering, clean water, natural resources block grants, local water management grants and related grant allocations, policies, and rules and making recommendations to the Board.*

**Meetings:** *The GP&PC will meet at least two times a year or as needed to review allocations or policies for base grants, competitive grants and special grants.*

**PUBLIC RELATIONS, OUTREACH & STRATEGIC PLANNING COMMITTEE (PROSPC)**

<b>Membership:</b>	Keith Mykleseth, chair	non-metro cities
	John Meyer	citizen
	Steve Sunderland	soil & water conservation district
	Joe Collins	watershed district/WMO
	Sandy Hooker	townships
	Christy Jo Fogarty	metro cities
	Chris Elvrum	Department of Health
	Faye Sleeper	University of Minnesota Extension
	Don Buckhout	staff lead
	Steve Woods	SMT staff

**Responsibility:** *The PROSPC is responsible for the development of strategic and outreach strategies and plans for the Board including identification of key outcomes, partnerships and opportunities. The PROSPC is also responsible for the Performance Review and Assistance Program (PRAP) oversight.*

**Meetings:** *Committee will meet twice a year or at the call of the chair.*

**RIM RESERVE MANAGEMENT PLANNING COMMITTEE (RRMPC)**

<b>Membership:</b>	Gene Tiedemann, chair	watershed district/WMO
	Gerald Van Amburg	citizen
	Tom Loveall	county commissioner
	Bob Burandt	soil & water conservation district
	Paul Langseth	soil & water conservation district
	Chris Elvrum	Department of Health
	Matthew Wohlman	Department of Agriculture
	Tom Landwehr	Department of Natural Resources
	Kevin Lines	SMT staff/staff lead

**Responsibility:** *The RRMPC is responsible for overseeing all aspects of the Reinvest in Minnesota (RIM) Reserve conservation easement program; for reviewing RIM Reserve Program statutes, rules, policies, guidelines, payment rates and projects; for developing strategic plans, operational partnerships, and opportunities to enhance the agency's conservation easements and related programs; and for making the resulting recommendations to the Board.*

**Meetings:** *The committee will meet, as called by the BWSR chair or the RRMPC chair in consultation with staff.*

**WETLANDS COMMITTEE**

<b>Membership:</b>	Gerald Van Amburg, chair	citizen
	Jack Ditmore	citizen
	Tom Loveall	county commissioner
	Brian Napstad	county commissioner
	Quentin Fairbanks	county commissioner
	Sandy Hooker	townships
	Tom Landwehr	Department of Natural Resources
	Matthew Wohlman	Department of Agriculture
	Rebecca Flood	Pollution Control Agency
	Les Lemm	staff lead
	Dave Weirens	SMT staff

**Responsibility:** *The Wetlands Committee is responsible for reviewing Wetland Conservation Act (WCA) and wetland banking rules, policies, guidelines and projects and making recommendations to the Board.*

**Meetings:** *The committee will meet twice during the year or at the call of the chair.*

**REGIONAL PLAN REVIEW COMMITTEES:**

**Membership:** \*Chair

**North**

- \*Quentin Fairbanks – CC
- Gerald Van Amburg – CIT
- Brian Napstad - CC
- Keith Mykleseth – NMC
- Gene Tiedemann - WD
- Matthew Wohlman – MDA
- Lori Dowling - DNR
- Ron Shelito, SMT staff

**South**

- \*Paul Langseth - SWCD
- Tom Loveall – CC
- John Meyer – CIT
- Todd Foster - WD
- Sandy Hooker - TWP
- Matthew Wohlman – MDA
- Chris Elvrum - MDH
- Steve Sunderland - SWCD
- Jeff Nielsen, SMT staff

**Metro**

- \*Bob Burandt – SWCD
- Joe Collins - WD
- Faye Sleeper – UM/Extension
- Jack Ditmore - CIT
- Christy Jo Fogarty - MC
- Rebecca Flood - PCA
- Jim Haertel, SMT staff

**Responsibility:** *Each committee has the responsibility to review county water plans, water management organization plans, watershed district plans, comprehensive wetland plans, and amendments to same and to advise the Board on the adequacy of the plans. The committees also hold hearings and make recommendations on establishment, dissolution, boundary changes and other specific local government plans and governance matters.*

**Meetings:** *The committee will meet as necessary to review the local plans and amendments and hold hearings as ordered by the Board. The BWSR northern, southern, and metro regional supervisors will coordinate meeting schedules with members.*

CC = county commissioner  
 CIT = citizen  
 SWCD = soil and water conservation district  
 WD = watershed district

WMO = watershed management organization  
 MC = metro cities  
 NMC = non-metro cities  
 TWP = townships

**NOTE:** *Committee membership and proceedings are included in the Board Bylaws.* -4-



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: 2012 Flood Response - Preliminary

Meeting Date: August 23, 2012
Agenda Category: [ ] Committee Recommendation [X] New Business [ ] Old Business
Item Type: [ ] Decision [ ] Discussion [X] Information
Section/Region: Statewide
Contact: John Jaschke/Wayne Zellmer/Al Kean/Ryan Hughes
Prepared by: John Jaschke
Reviewed by: None Committee(s)
Presented by: John Jaschke

[ ] Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: [ ] Resolution [ ] Order [X] Map [X] Other Supporting Information

Fiscal/Policy Impact

- [ ] None [ ] General Fund Budget
[ ] Amended Policy Requested [ ] Capital Budget
[ ] New Policy Requested [ ] Outdoor Heritage Fund Budget
[X] Other: Expected Future Fiscal Decision [ ] Clean Water Fund Budget

ACTION REQUESTED

Review 2012 Flood Reponse efforts in the Federal Disaster Declaration areas and be prepared (potentially) for a contingent decision to make some intial expenditure authorizations if a Special Legislative Session results in appropriations to BWSR.

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)
The process BWSR uses to identify problems and estimate needs for DR-4069 is the same for both categories - Erosion, Sediment, and Water Quality Control and Watershed Protection Projects (General Fund) and Reinvest in Minnesota (RIM) Conservation Easements (Bonding).

The Bonding funds are for land that is too damaged to repair too likely to be flooded again and is thus put into a conservation purpose via acquisition of a state conservation easement. No federal funding expected.

The General Funds are to repair streambanks, hillsides, stormwater conveyance and treatment systems and soil erosion problems via engineered or biologically designed standards to fix the infrastructure or natural resource so that future floods do not cause similar harm. A local government sponsor is needed for each project. Partial federal funding for a few of the largest projects is possible.

The Process: After the flooding event has passed and the time sensitive public safety aspects are in control, local governments (with Soil and Water Conservation Districts as the hub) are directed to respond to citizen inquires and outreach to them as well (see attachment #1). The flood damages inventories and assessments (see attached example from Lake County) are assimilated and used to make projections for the entire Disaster Declaration area (see attachment #3). We won't have lists of specific projects to fix the 2012 damages until applications are submitted to the MN Recovers Task Force. We won't know which projects are eligible and will be funded until the applications are prioritized and funding (from the ordered list of: insurance, federal, state, local/owner) is known.



# BWSR Third Preliminary Damage Estimates: June 2012 Flood

(7/30/12)

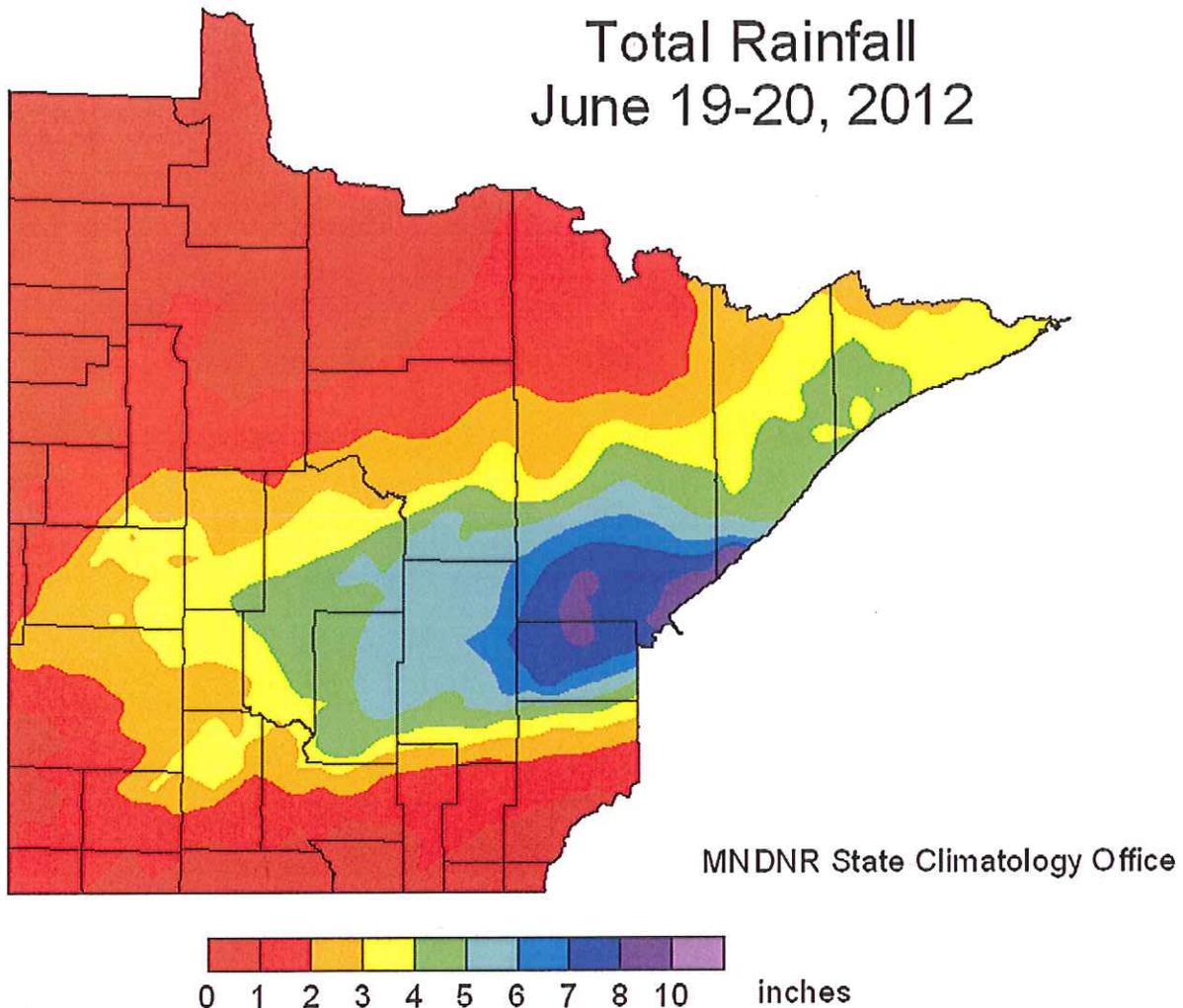
Local Government	Estimated erosion control needed so far:	Rough total projection based on evaluated area (erosion control)	Estimated riparian floodplain damage and RIM funds needed so far	Rough total projection based on evaluated area (RIM funds)	Percent (%) of flood damaged area assessed or covered that make up preliminary numbers
Aitkin SWCD	\$130,000	\$866,667	\$200,000	\$2,000,000	15%
Carlton SWCD	\$280,000	\$700,000	\$0	\$0	40%
Cass County	\$180,000	\$180,000	\$0	\$0	100%
Cook SWCD	\$90,000	\$180,000	\$0	\$0	50%
Dakota SWCD	\$800,000	\$1,600,000	\$200,000	\$400,000	50%
Goodhue SWCD	\$400,000	\$1,600,000	\$50,000	\$200,000	25%
Itasca SWCD	\$1,091,000	\$1,454,667	\$200,000	\$266,667	75%
Kanabec	\$0	\$0	\$0	\$0	0%
Lake SWCD	\$425,000	\$500,000	\$0	\$0	85%
Mille Lacs SWCD	\$0	\$0	\$0	\$0	0%
Pine SWCD	\$250,000	\$1,250,000	\$0	\$0	20%
Rice SWCD	\$230,000	\$460,000	\$54,000	\$108,000	50%
N St. Louis SWCD	\$0	\$0	\$0	\$0	0%
S St. Louis SWCD	\$3,240,000	\$21,600,000	\$0	\$0	15%
<b>Totals</b>	<b>\$7,116,000</b>	<b>\$30,391,334</b>	<b>\$704,000</b>	<b>\$2,974,667</b>	

No damage to report

# Recent Minnesota Flash Floods with Major Federal Disaster Declarations: 2012, 2010, 2007

(Minnesota Climatology Working Group, State Climatology Office - DNR Division of Ecological & Water Resources / University of Minnesota)

## Duluth Area Flash Flood of June 19-20, 2012

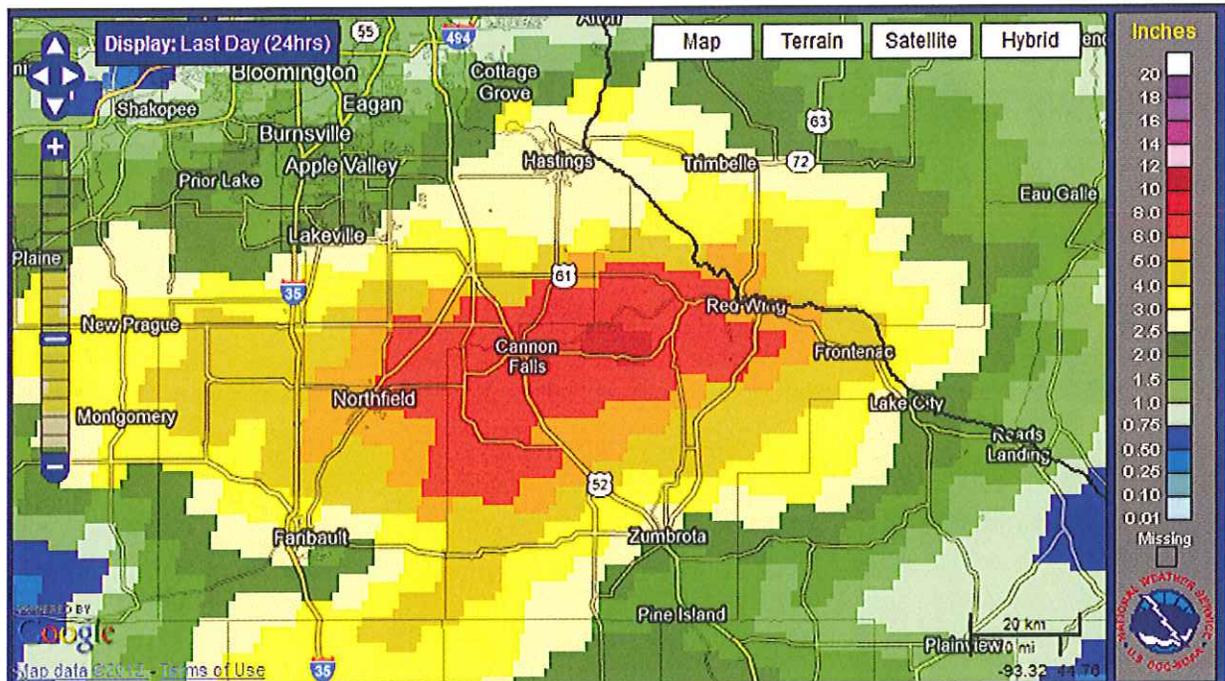


**The most damaging flood in Duluth's history.** The most damaging flood in Duluth's history began when heavy rains fell over [already saturated](#) ground, making the situation worse. The main event occurred from around noon on the 19th through about noon on the 20th. At the Duluth National Weather Service the rainfall total on June 19th was 4.14 inches, with the two day total of 7.24 inches. The record one day total rainfall for Duluth is 5.20 inches on July 21, 1909. The highest precipitation total found so far for the multi-day event is 10.10 inches from a NWS employee just northeast of Duluth. Two Harbors saw 9.93 inches of rain.

The focal point for the heavy rain was north of a slow moving warm front draped across central Minnesota. Waves of thunderstorms developed and affected areas from Brainerd to Duluth, with southern St. Louis County and Carlton County hit especially hard. Substantial flooding was reported in many areas around Duluth, including the Lake Superior Zoo. I-35 was closed for a time in Duluth. Highway 61 was still closed through June 21 between Duluth and Two Harbors. Road closures were commonplace in Itasca, Aitkin, Carlton, southern Lake, and southern St. Louis Counties.

The St. Louis River at Scanlon rose 11 feet and hit a record crest of 16.62 ft, breaking the old record of 15.8 feet that was set on May 9, 1950. Some evacuation of homes was necessary. This storm eclipsed a heavy rain event in [August 1972](#) that caused serious damage in the Duluth area.

## Cannon Falls Flash Flood of June 14, 2012



**Precipitation Totals Near Cannon Falls for the 24 hour period ending June 15, 2012**

*Courtesy: Chanhassen National Weather Service*

**Torrential rains fall on Goodhue, Rice and Dakota County causing flooding.** Torrential rains fell during the afternoon and evening of June 14 in Goodhue, Rice and Dakota Counties. Hardest hit was northern Goodhue County with reports of six to eight inches. The highest 24 hour total found so far is 8.83 inches from a National Weather Service Cooperative observer located in Cannon Falls. Another volunteer observer reported 8.40 inches in Stanton Township in northwestern Goodhue County. Another observer located in Northfield in Rice County recorded 7.13 inches.

The 8.83 inches measured at Cannon Falls is the largest 24-hour total June rainfall measured at a Minnesota National Weather Service Volunteer Cooperative station in the history of the program. The previous record was 8.67 inches measured on June 17, 1957 at Minnesota.

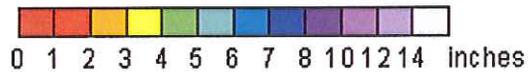
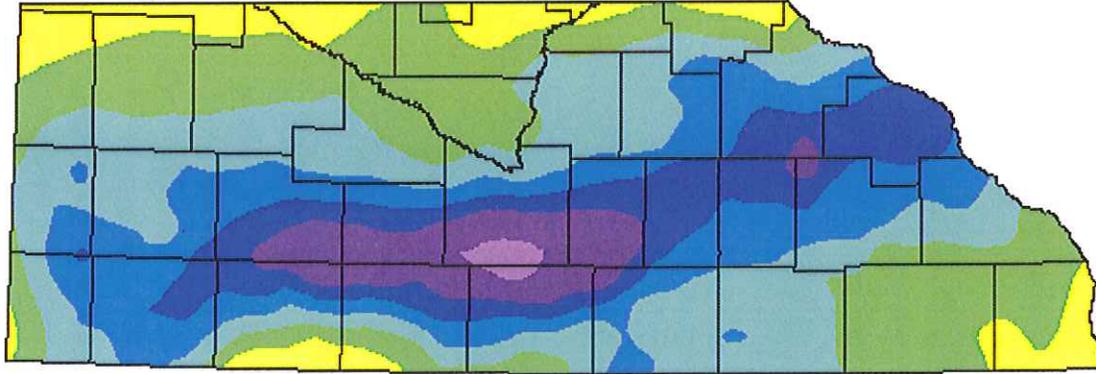
The focus for the heavy rain was a stalled warm front that was draped across southern Minnesota.

The heavy downpours caused flooding in basements in the hard hit areas, as well as rapidly rising rivers. The Little Cannon River near Cannon Falls rose twelve feet in about ten hours and set a new record crest. The Cannon River at Welch was near a record crest by 10am June 15. Numerous roads were closed in Goodhue County, including Highway 52 during the evening of the 14th. People were being asked to evacuate their homes in parts of Cannon Falls.

The Chanhassen National Weather Service has produced a [summary](#) about the June 14-15, 2012 flooding.

## 2010 Southern Minnesota

### Total Rainfall September 22-23, 2010

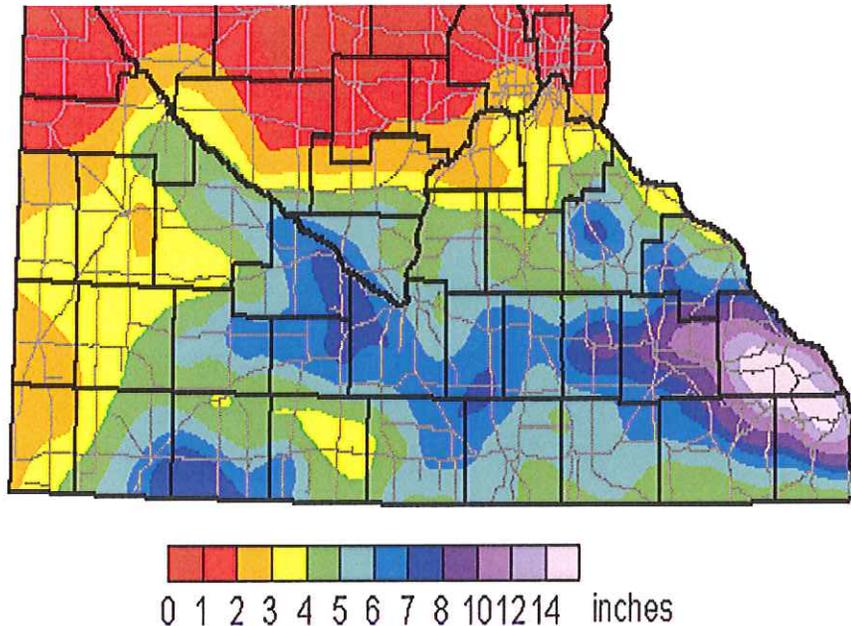


MNDNR State Climatology Office

There was one major flash flood of six or more inches in 24 hours in 2010 and that was the September 22-23, 2010 event over southern Minnesota. It was the largest flash flood event to hit the state since the August 18-20, 2007 flood. The National Weather Service observer in Amboy reported 10.68 inches in 24 hours and the highest two-day total from the MNGage network was 11.06 inches near Winnebago in Faribault County. Post-event Report: [Floods of September 2010 in Southern Minnesota PDF](#) (US Geological Survey)

## 2007 Southeast Minnesota

### Rainfall Totals for Southern Minnesota August 18 through August 20 (8:00 AM CDT), 2007



State Climatology Office - DNR Waters

#### **August 18-20, 2007: Southeast Minnesota**

The most memorable singular event of 2007 is the southeast Minnesota flood of [August 18-20, 2007](#). A series of thunderstorms moving along a stalled frontal boundary dropped extremely heavy rain on much of southern Minnesota beginning August 18. The most intense precipitation rates occurred during the afternoon and evening hours of Saturday, August 18, and the early morning hours of Sunday, August 19. Over the course of the event, all or portions of 28 counties received at least four inches of rain. Six-inch totals were common across the region, and portions of southeastern Minnesota reported astounding rainfall amounts ranging from 8 to 18 inches. The heaviest rainfall reports came from Winona, Fillmore, and Houston counties, where 36-hour totals exceeded 14 inches. The largest multi-day rainfall total reported was 18.17 inches observed west of La Crescent in northern Houston County. An official National Weather Service climate observer near Hokah in Houston County reported a storm total of 16.27 inches. Of the 16.27 inches, 15.10 inches fell within the observer's 24-hour observation cycle ending at 8:00 AM on Sunday, August 19. This is the largest 24-hour rainfall total ever recorded by an official National Weather Service reporting location in Minnesota. *The previous Minnesota record was 10.84 inches, measured at the city of Fort Ripley in Crow Wing County on July 22, 1972.*

The deluge produced flooding tied to seven fatalities. Major flood damage occurred in many southeastern Minnesota communities. Hundreds of homes and businesses were impacted. Reports of stream flooding, urban flooding, mud slides, and road closures were numerous throughout southern Minnesota. The combination of huge rainfall totals and a very large geographic extent, make this episode one of the most significant rainfall events in Minnesota's climate history. A six-inch rainfall total for a given location in this region over a 24-hour period is said to be a "100-year" (1% probability) storm. The area receiving six or more inches during a 24-hour period in the midst of this torrent encompassed thousands of square miles. Other heavy rainfall events during this decade of comparable magnitude and spatial coverage include extraordinary rainfalls in northwestern Minnesota on [June 9-10, 2002](#) and in southern Minnesota on [September 14-15, 2004](#).



# Flood recovery: recent appropriation summary

Prepared Aug. 8, 2012

## Land retirement via Reinvest in Minnesota (RIM) Conservation Easements

Flood event	Appropriations	Easements	
		Number	Acres
2007 Southeast	<b>\$2.1M</b> \$1.0M Special Session appropriation \$1.1M transfer from bonding appropriation  <b>\$2.0M Regular Session</b>	44	1,335
2009 Red River	<b>\$0.5M Regular Session</b>	5	223
2010 Southern	<b>\$10M<sup>^</sup> Special Session</b>	94	4,997

<sup>^</sup>Leveraged approximately \$15M of federal USDA-NRCS WRP funding

## Erosion, sediment and water quality control and watershed restoration projects

Flood event	Appropriations	Practices applied
2007 Southeast	<b>\$5.2M</b> '07 Special Session \$3.0M '08 Regular Session \$0.725M Transfer from DEED \$1.89M (Jan. '10 budget reduction \$0.4M)	637
2009 Red River	<b>\$1.45M</b> '09 Regular Session \$1M \$0.25M transfer from DoR \$0.20M transfer from DEED	40
2010 Southern	<b>\$3M Special Session</b>	170*

\*Practices are still being applied (\$380k balance)



# BWSR flood response: recent examples

August 2012

## Kellogg Streambank – 2010

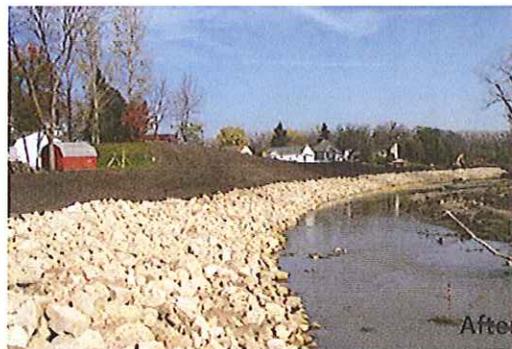
Severe flooding during September 2010 resulted in streambank erosion along the south bank of the Zumbro River just east of Highway 61 in the City of Kellogg. The erosion resulted in a series of slope failures that threatened several homes located on the southern perimeter of the river bank. The project was designated as an eligible Emergency Watershed Protection (EWP) program site by the Natural Resources Conservation Service (NRCS), which provided cost-share funding through designated Minnesota Flood Relief funds.



	State and local investment	Federal leverage
Design / engineering	\$60,000	\$29,000
Construction	\$120,000	\$349,500
Total restoration costs	\$180,000	\$378,500
<b>Total investment</b>	<b>\$558,500</b>	

## Minnesota City – 2007

A streambank stabilization project on Garvin Brook in Minnesota City was completed less than three months after one of the most severe flooding events in Minnesota history. Southeast Minnesota received 8-20 inches of rain over three days, including more than 15 inches of rain in 24 hours in some areas. This is the largest total ever recorded by an official National Weather Service reporting location in Minnesota.



	State and local investment	Federal leverage
Design / engineering	--	\$75,000
Construction	\$173,763	\$472,909
Total restoration costs	\$173,763	\$547,909
<b>Total investment</b>	<b>\$721,672</b>	

## Other flood-relief conservation practices

- Sediment and debris removal
- Critical area seeding
- Heavy use area protection
- Pond clean out
- Erosion control structure repairs
- Terrace repairs
- Grass waterway repairs
- Well sealing

### Spillway critical area stabilization



Houston County: State and landowner invested \$3,620.

### Slope stabilization along road



City of Hokah: State and city invested \$23,731.

### RIM conservation easements retire floodplain cropland



Watonwan County: Floodplain cropland damaged by September 2010 flood.



Nicollet County: Previously farmed Minnesota River floodplain, later retired using RIM and CRP.

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## BWSR Authority

Per executive order 11-03, the Minnesota Board of Water and Soil Resources (BWSR) is responsible for the following actions during natural emergencies and emergency preparedness events in the state:

- Direct local governments to include provisions for water and soil related property protection and hazard mitigation in state approved local water management plans.
- Serve as the lead state agency responsible for providing financial and technical assistance for water and soil control projects and practices, subject to the availability of funds. Also serve as the lead state agency to coordinate with federal disaster funding available from the United States Department of Agriculture Natural Resources Conservation Service and Farm Services Agency.
- Designate a point of contact and coordinator for emergency preparedness on the Emergency Preparedness and Response Committee (EPRC).
- Provide technical and financial assistance to seal abandoned private wells that are a threat to groundwater or drinking water supplies, subject to the availability of funds.
- Assign staff to the Minnesota Recovers Task Force when requested, assist the Division of Homeland Security and Emergency Management in implementing water and soil conservation provisions of the State All-Hazard Mitigation Plan and in updating the Plan, as it relates to programs administered by BWSR.
- Coordinate local government unit assistance to property owners applying for State and Federal water and soil related disaster relief funding.
- Provide information or coordinate the involvement of personnel or local government unit representatives at Disaster Recovery Centers (DRCs) or other venues to disseminate information to, and solicit information from, flood victims when requested.